



1843

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horrors which they saw he would bring upon the community if permitted to carry out his plans, had removed the priming, and crowded the chamber of each piece with wet paper. If they had not done so, the first discharge—which could have done but little damage to the arsenal—would have been followed by a volley of grape and canister, which would have left half the rebels dead upon the field.

Whilst these events were transpiring at the arsenal, the companies from the city were moving towards the scene of action, a mile and a half distant. Their march can never be forgotten by any who were present. The stillness of midnight was broken only by the solemn toll of the bells, the quick footfall of citizen after citizen as he left his home and hurried armed to join the ranks, and the occasional report of a cannon, which came booming across the cove from the rebel quarters. The companies moved on, speechless and without music, a dark mass in solid phalanx, amidst darkness and gloom, to a fate they knew not, but resolved to meet it like men. You may talk of the sublimity of a battle field—it is nothing to it. Many a coward, in the light of day, amid the serried ranks of a disciplined host, encouraged by the stirring strains of martial music, and animated by the action and the din of the conflict has rushed upon the cannon's mouth—but how much more awfully sublime the scene, when men leave their homes in the darkness of night, and go forth, with none of the pomp and circumstance of war, in a silence to be *felt*, to meet black hearted conspirators, they know not how numerous, through they know not what snares!

The sudden retreat of Dorr prevented the necessity of

immediate conflict. At day-light a notice issued by the Mayor was circulated through the city, requesting all men to close their places of business during the day, and to meet at the Cadet alarm-post, at half past seven o'clock. Dorr ordered his men to breakfast and to be at their posts by seven, prepared to defend him to the last. About seven, the steamboat arrived, bringing the Warren, Bristol, and Newport troops, a hundred and sixty-one in number—as fine, resolute looking a body of men as I ever saw. It was only the haste of preparation that prevented more from coming. These noble men, farmers, mechanics, and merchants, leaped from their beds, at midnight, at a moment's warning, bade their families a hasty adieu, and came away to fight to the death, if need be, for all that they loved. Punctual to the hour, the citizens assembled and joined the various military companies, and the whole body, amounting to more than five hundred men, with six field-pieces, moved off towards Federal Hill, under the command of Governor King and Colonel William Blodget, a distinguished merchant in Providence, a man of nearly three score years and ten, but with an elastic step and a fresh heart, who wore the same unruffled brow on the field as in the drawing-room. As we were approaching Dorr's head-quarters, the report came that he had fled—but no one seemed to believe it, it was so unlike what we had been led to expect of him. We advanced till we were within musket shot of the house. Colonel Blodget now ordered a detachment round the hill to approach the house in the rear, and soon brought several cannon to bear upon it in front. Seeing their situation to be now desperate, the greater part of the insurgents, who at first numbered three or four hundred, fled, and the rest, taking their cannon, hastily withdrew to a well chosen position about

a quarter of a mile off, leaving, however, a guard at the house. Governor King, with the High Sheriff, at the head of one of the companies, now entered the house, amidst shouts and threats, but without a gun being fired, and searched it thoroughly, and announced to the troops that Dorr had actually fled. His flight, it seems, was so secret that only two or three of his own men knew it till a short time before it was thus announced. A company of men on horseback were despatched in pursuit of Dorr, and the attention of the rest directed to taking the cannon from the remaining mob of insurgents and dispersing them. It seemed impossible to do this without the loss of many valuable lives. They were strongly posted—they were men, ferocious by nature, desperate in circumstances and infuriated by liquor. They brandished their lighted matches within a few inches of their heavy-loaded cannon, and were several times prevented from firing only by some one of them less drunk, who struck off the match with a sword just as it was descending upon the powder. At this time we were facing the brazen throats of their cannon, in a perfectly straight street, within half musket shot. As soon as the cannon were brought to bear upon them a second time they again retreated to another skilfully chosen position, upon the brow of the hill, and swore they would never be driven from it, but but that if pressed, they would fire once and then run or die. Our cannon were again arranged to command them, and every thing was ready—the critical moment had arrived—it was an awful moment. The Governor exhorted them for the last time to disperse. They answered only with oaths, and threats, and brava^{do}.

He waited a short time, and just as the word was given, the leaders of the rebels entreated the Governor to stop—

told him that the men were drunk, and that they themselves had lost all command of them ; but that if he would withdraw his forces from the ground, they would pledge themselves to return the cannon, and would induce the men, as soon as the madness from rum had somewhat abated to disperse. There were not at this time more than twenty-five of these desperate men around the guns. In consideration of these statements and pledges, and to spare the lives of valuable citizens who might otherwise be slaughtered, the Governor withdrew his forces. But no sooner had they returned to the armories, than the miscreants, joined by many others, refused to return the guns and commenced throwing up a breastwork to defend themselves. They were headed by a man named DeWolf, from Massachusetts, who encouraged them to hold out, by the hope that they would before morning receive aid from New-York and Massachusetts. It was feared that it would be found necessary to march against them again. If the citizens had been called together again to dislodge them, such a height had indignation reached against these villians, that I verily believe, no one of them would have been left to tell the story. It was thought best, however, to leave them in possession of their entrenchments, where they could do no harm, till it should be evident that they did not intend to give up the guns. They worked all night, and drank deeply of rum—but the cold dews and the hard labor, had a wonderful effect in sobering them down, so that towards morning, finding they were not reinforced as they expected to be, *they brought back the cannon and dispersed.*

All is over. In looking back upon the affair, it seems almost miraculous that it should have ended without bloodshed. To all human appearances, the most san-

guinary contest was inevitable. There never was any real doubt, at least in my own mind, of the result—but I did not think it would be attained without the loss of many lives.

It teaches a most salutary lesson to the whole country. In getting up this excitement, every art of demagogueism and deception was plied to the utmost—all the clap-traps of party and the cant of faction were employed. The name of "*the people*" was assumed, and changes incessant and boisterous were rung upon it. The *extension of suffrage* was held up as the ostensible object of the movement, while the only *real* object was to bring a few broken down political outcasts again into power. Every effort was made and in some cases, too successfully, to identify the disorganizers with the great democratic party through the country. Nothing was said about this in Rhode-Island. It would not go down here. Every body here knew that every prominent man of that party was on the other side, and the assertion that this movement had any connection however remote with the politics of either party, was loudly and always denied. But out of the State it was different. The respectable men of every party would have nothing to do with it—but the Tammany Hall agitators, the Slamm Jacobins, the reckless demagogues, the cormorants that scream for plunder near every battle field, were ready to adopt this mis-begotten bantling and rear it into a champion to fight them into power. Sympathy-meetings were held in New-York, in Philadelphia, and even in Boston. Many editors throughout the country, some of them, perhaps, ignorant of what they were doing, did all they could to fan this incendiary flame. But notwithstanding all this, at the first call to arms, THE PEOPLE arose in mass to vindicate their insulted and outraged name, and guard

their cherished liberties from the trampling feet of lawless violence, no matter what motto it had assumed, to aid the plans of infuriated demagogues, whose passion for power rode riotously over every restraint, and made them eager to establish a "reign of terror" in happy America—aye, among the hallowed hills of puritan New-England—aye, over the very grave of Roger Williams!

This contest, not only shows that no political end is to be gained here by resort to threats and violence; it also shows *who are the people*.

Dorr, with his coadjutors, after resorting to every means of lattery, to promises of plunder and threats of vengeance, could not find two hundred, no, not fifty men fully to sustain them in their violent career. But within six hours after the first stroke of the alarm bell, the Governor found himself at the head of more than five hundred able bodied men, the muscle and strength of this city—the strong hold of the suffrage party—who were ready to march and who did march unblenchingly to the cannon's mouth to defend the State from the ruthless fury of traitors and desperadoes.

The question is now settled in Rhode-Island. A constitution will soon be adopted which will suit all but these discarded demagogues. The only reason why such a constitution has not been adopted before, is, that since it has been called for, it has been utterly impossible to adopt one without leaving the state naked to the designs of abandoned men. Now, no such obstacles exist. Dorr has gone—"Abiit, evasit, excessit, erupit." He will never more trouble Rhode-Island. So he says, and so all believe. His own men declare they will shoot him if he returns. He has swindled them out of their money and made them fools and traitors for nothing, and then deserted them

and fled. Nearly all the other prominent men of that party have either publicly renounced all connexion with it, or have been arrested for high treason and placed under heavy bonds to keep the peace. The good men who at first joined that party with the impression that its object was peaceably to obtain an extension of suffrage have had their eyes completely opened, and behave like men who see the truth and feel its force.

Dorr, is a man of good native talent, but cold, calculating, supremely selfish, and doggedly obstinate. He was, I think, at first sincere in his convictions respecting the political changes which he proposed in this State. But after pursuing them for a time in such a manner, as would have secured him success, his love of power, which amounted to a monomania, suggested to him what he considered a more speedy way, and he pursued that with all the determination of his character, disregarding to the last, the most tender and earnest entreaties of all his relatives, and heeding not the awful consequences which must have attended the execution of his Robespierre-like plans.

The extent and atrocity of his plans almost exceed belief. They have been fully divulged. He intended to take the arsenal and supply his unarmed followers with arms, then to march to the colleges and take them for barracks and for a fortress commanding the city, then to seize the market and break open the clothing stores to supply the wants of his troops, and next to proclaim martial law in the city, and levy contributions to answer the expectations of an equal distribution of property, which had been held out to some of his followers, and to enable him to carry out his designs. By this time he relied upon being joined by so many of the thoughtless rabble from all quarters as to be able to bid defiance to all opposition and establish

his dominion so that it could not be shaken. That such a plan should be formed by a man in his senses, in this country, is almost incredible—that it should have come so near to succeeding is appalling—that it should all have been utterly crushed without bloodshed is almost miraculous. Nothing prevented his complete success but his miscalculating the extent to which his agents would back him. But he has gone, and Heaven has saved us.

For the last week the impression has been common, even among some of his own party, that he was insane. But the events of the few hours preceding his flight,—his terrible dejection and chagrin, when he found that his schemes were all frustrated, will not allow us to adopt so charitable a conclusion.

“On the arrival of the Newport Artillery, at Newport, they were received by 250 men under arms and waiting orders. The whole body immediately proceeded to one of the churches, where divine service was performed, and solemn thanksgiving offered to that Almighty Power whose mercy had given us victory without blood.”—*Journal of Saturday*.

This example should be followed throughout the State. It was God who frustrated the designs of these wicked men—to Him should be rendered the praise.

The war is completely over, the excitement should be permitted to subside. The ravings of the New Era are as idle as they are infamous. It is said that the editor has advanced money to a considerable amount to the party here. His zeal now smells of copper. If he should be able to collect a gang of but-enders and Five-Point miscreants, they will be taken care of—New-York will have reason to rejoice.

FACTS FOR THE PEOPLE :

CONTAINING

A COMPARISON AND EXPOSITION OF VOTES

ON OCCASIONS RELATING TO THE

FREE SUFFRAGE MOVEMENTS

IN RHODE-ISLAND.



PROVIDENCE :
KNOWLES & VOSE, PRINTERS.
1842.

COMPARATIVE TABULAR STATEMENT
OF VOTES

TO THOMAS W. DORR, ESQ.

SIR: The crisis has now arrived, when it becomes you and your friends to pause, and to reflect on the issue to be made. As a lawyer, you must be aware that, even should Congress and the Supreme Court of the United States decide in favor of your principles, they will demand incontrovertible *proofs* of the fact you *assume*, that a majority of the 23,000 white male citizens in this State, *actually voted for the People's Constitution*. To make out the proofs, you must be well aware is the business of your party which makes the claim. You must also be well aware, that neither Congress nor the Court, will accept of any evidence unless it be strictly of a legal character; such as returns made by officers legally chosen, and sworn, or returns sworn to when made. In confirmation of this truth, you are respectfully invited to publish the letter of MR. BENTON, which has not yet been allowed to pass into the hands of the public; and no longer to deceive those who have been duped by the pretence that the burden of proof is with the government of the State. You, Sir, have the proofs to make out—you know it well. It is time you were about it, to learn how large a number of your votes can be *sworn to*; and, to aid you in the work, permit me to lay before you, the few following pages.

A SUFFRAGE MAN.

COMPARATIVE TABULAR STATEMENT OF VOTES.

	Freemen for People's Con- December, 1842	Freemen not for Con. Nat. 1842.	votes of Fr'men for Carpenter Prox, April, '42	Votes of Fre- men for the R. L. April, 1842.	Votes for Peo- ple's Con., Dec- ember, 1841.	For Dorr, under People's Con- on Free ticket, April 1842.
Providence,	1058	319	396	863	3553	2154
N. Providence,	220	106	78	111	708	402
Smithfield,	382	249	266	204	1338	664
Cumberland,	293	185	189	147	892	504
Scituate,	208	121	116	196	524	220
Cranston,	159	110	98	119	400	250
Johnston,	139	86	94	110	347	215
Gloucester,	138	212	120	62	401	250*
Foster,	125	70	60	186	238	50
Burrillville,	237	167	96	71	280	150*
Newport,	317	102	122	380	1207	327
Portsmouth,	67	63	29	109	127	89
Middletown,	*12	2	3	78	25	00
Tiverton,	100	44	20	175	274	115
Little Compton,	18	4	20	91	43	†
New Shoreham,	117	27	00	80	124	†
Jamestown,	30	9	8	36	66	00
S. Kingstown,	135	91	55	224	275	89
Westerly,	107	76	65	106	251	37
N. Kingstown,	81	110	90	135	251	146
Exeter,	53	11	7	119	134	00
Charlestown,	*50	24	29	55	100	†
Hopkinton,	80	89	87	101	160	†
Richmond,	45	*40	45	70	132	†
Warwick,	308	168	107	207	895	417
Coventry,	156	130	90	197	008	21
E. Greenwich,	52	37	33	112	137	69
W. Greenwich,	9	17	4	114	48	17
Bristol,	160	65	46	229	366	140
Warren,	103	34	19	184	210	42
Barrington,	28	17	00	45	53	40
<hr/>						
	4927	2684	2392	4916	13966	6417

* No return—Number estimated.

† No meetings.

† No return.

REMARKS.

THE whole number of persons claimed to have voted for the People's Constitution, is 13,966. The number in the State set down by the Suffrage Party as being entitled to vote, is 23,542. The number voting was therefore a majority of 2195 more than one half, and a plurality of 3,390, over those who did not vote. Had the usual mode of voting been adopted, there would have been neither majority nor plurality, as the facts conclusively show. For, at the expiration of the first three days, though the polls had been removed from place to place, the whole number cast amounted to less than 10,000; and the remainder were obtained in the succeeding three days, by PROXY, as follows:

As a preliminary measure, to secure a strong vote, Vigilance Committees had been appointed and organized at an early day previous to the time of voting. These committees thoroughly canvassed their respective wards, districts and towns, and ascertained generally, who would go to the polls and vote, who would be prevented from attending the polls by reason of sickness, or other bodily infirmity, and who by reason of absence from the State. Wherever any of the latter description of persons were found favorable to the People's Constitution, either ballots were presented to them for their signatures, to be held in reserve for use, or leave obtained to use their signatures when the occasion should arrive. By such means, there were about **FOUR THOUSAND BALLOTS**:

not far from thirty per cent, of the aggregate number given in by PROXY on the 4th, 5th and 6th days. *Not one of these four thousand persons came to the polls, many of them were at the time absent from the State, and portions of them belonging to sundry whalcmen and other vessels, were on the ocean, and some of them it is believed, NOT FAR FROM CAPE HORN.* How many spurious votes were cast on the first three days, it would be difficult to determine. But it is well known that more than three hundred were cast in one town, by unnaturalized foreigners and others than whom the People's Constitution recognized as voters. Many votes were given in the names of persons who never existed, while many voted several times each, some in different towns, voting from poll to poll, and numbers of votes were cast by minors, and others by persons whose residence in the State did not exceed as many weeks as the constitution required months. All these facts admit of good and valid proof; and how many of the proxy votes bore fictitious signatures, or were fraudulent in themselves, perhaps no one will ever know. That many such were given in, there can be no reasonable doubt, as no oath was taken by any one, either Moderator, Clerk, Voter, or Proxy, and none was required—as it was *determined to have a large vote.* And as all that was required for the admission of a proxy vote, was, that it should be signed by the person from whom it purported to come, and be countersigned by a person who had voted himself. Scarcely a doubt can be entertained that much fraud must have been committed in this procedure. And it is thought not to be an exaggeration of the facts, to suppose that, during the six days, at least three thousand spurious votes were received. That number deducted, would cut down the sum total to 10,966; and which would leave the People's Constitution in a minority, by 2,576 votes.

The only question is, is this the true state of the business. It is so believed by many. Then, on whom rests the burthen of proof? If the returns of votes claimed a legal sanction, and were the attested records of sworn officers under the law, the records would be *prima facie* evidence, and could not be invalidated without legal proofs. But it is not so. Not a solitary word or name in those reports, is sustained by oath of any description. The returns therefore, cannot be taken as record evidence. Before they can be admitted as evidence of the alleged facts they set forth, in any legislative or judicial body, they must be substantiated by oath; and every vote they record, as a whole, or in detail, must be sworn to, or at least so many as to make up a majority (11,772.) Those therefore who make the claim in behalf of the People's Constitution, must on every principle of law and equity, make out the case for themselves. They must also make it out by sworn evidence. Can they do that? Let them try. We are bold to say, if we admitted them to be right in other matters, which we do not believe, it is out of their power to prove, under oath, and which they are bound to do, that their constitution received even 11,000 such votes as that constitution requires.

THE COMPARISON.

Having made the foregoing statements, let us now advert to some incidental points, and see how far they bear us out.

On Monday, April 18, 1842, the first election occurred under the People's Constitution. True, it was a damp and disagreeable day, though not an extremely inclement one. The excitement had in no measure abated. Every means was made use of to rally the friends of the constitution. Yet, after all, as will be seen by reference to the table, only

6,417 persons voted ; a falling off of 7,449 from the vote claimed for the constitution. It is vain to make the attempt to account for this great deficiency by reference to the unfavorable state of the weather. Great reliance was placed on the vote to be cast on that day, as a test of the party strength ; and it was to have been expected that, in all densely peopled districts, a full vote would be brought out. Yet, in the city of Providence alone, the falling off from the vote on the constitution, as the table will show, was 1,399 votes, nearly 40 per cent, and in Bristol, Warren and Newport, the deficiency is 1,274—being more than 60 per cent. Taking Providence and the latter three towns in the aggregate, the deficiency is 2,673. The whole number said to have been given in these four places, for the constitution, is 5,336 ; and the falling off is a fraction over 50 per cent, or more than one half. The deficiency throughout the State, is, in the aggregate, but little more than that ; and the facts show that the weather produced little or no effect.

Another excuse is, that the law passed at the late extra session of the General Assembly had the effect to keep people from the polls. This excuse is without foundation in truth or reason, as respects towns in which meetings were held. The law had reference only to wardens, moderators, clerks, and candidates for office, and every man was left, free from all legal liability, to vote, or not to vote, as he might elect. The terrors of the law did not reach the voter, and were not intended for him. If therefore men were not afraid to act in official capacities, it is folly to talk of the fears of voters. The law did however operate to prevent meetings in some towns, in which none were found hardy enough to preside. Those towns were Little Compton, Charlestown, Hopkinton, Richmond and probably New Shoreham, which altogether gave for the People's Constitution.

only 559 votes, as claimed. Add that whole number to the 6417 reported, and the amount will be 6976—just 7 votes short of one half the number claimed to have been given for the People's Constitution. Besides these facts, many votes not authorized by that constitution, are known to have been received. The loose manner in which the meetings were held, and at which, every one, who would, was permitted to vote without challenge or question, justifies the belief that the spurious votes must have been numerous; and it is extremely doubtful if the fact could be substantiated by any thing like legal testimony, that even 5,000 persons actually voted, who were authorized to vote by the People's Constitution. On such flimsy grounds, rest the pretensions of a body of men, who in the name of the people of the State, claim the reins of government. A body of men who cannot show by valid testimony, that their constitution has ever been sanctioned by a majority, and who, not having attempted to exhibit any such testimony, have been elected under that constitution, by little more than one fourth of the people, according to their own showing. If old established governments can be overthrown, by such a process, and new ones instituted in their places, under the sanction of our National compact, then the sooner that compact is dissolved, the better; for it is neither more nor less than mobocracy, which must, as mobocracy always must, end either in tyranny or despotism, or in the final utter destruction of State or Nation.

VOTES OF FREEMEN.

The Suffrage Party have claimed that their Constitution was also adopted by a majority of the freemen, the legal voters under the existing laws; and from which alleged fact they attempt to enforce

the assertion that the legislative authorities, the immediate representatives of the freemen, are bound to submit to the new intended government, in obedience to the supposed expressed will of their constituents. This dogma, like all the rest, is founded on mere assumption, without a shadow of legal or valid evidence to sustain it.

The number of votes claimed to have been given by freemen, is 4,927 ; and that number is set down as a majority of the freemen, or legal voters, of the State. Thus, the whole number of freemen in the State, is assumed to be less than twice that number, or less than 9,854. Suppose all these to be facts, who knows them? For, in order that they be admissible as evidence, they must be *known* ; and known too, in a MANNER TO BE SWORN TO. Has any pains been taken by the advocates of the People's Constitution to ascertain the number of freemen in the State? And have they found the number to be less than 9,854? And if so, have they arrived at the result *with that definite certainty, which will enable them to establish it ON OATH?* If not, of what utility to them can the estimate be? They may guess at the number 9,850—others may guess 10,000, or 12,000, more or less ; and the guess work of others is as good as theirs. But not one of them is worth a groat. In this case, as in all others subjected to legislative or judicial investigation, facts claimed must be substantiated by such testimony *under oath, that will pass the ORDEAL OF A COURT OF LAW.* It is hazarding nothing in this case, to say that no such testimony has been tendered, to show that 4,927 constitute a majority of the legal freemen of the State, or if that number were the majority, that so many voted for the People's Constitution. Until such proof is made, what warrant have the Suffrage Party to call on the legislative authorities, the sworn Representative of those

voters, to lay down the power entrusted with them, and to aid in overturning the government they are sworn to support. When the friends of the People's Constitution shall have proved by irrefragable evidence, that they had the majority they claim, they may make the demand with a better grace. That proof they have never made. That proof they never will make; and that because they cannot make it.

In further evidence of these views, look at the returns of the votes of freemen on two subsequent occasions, when the instrument called the Landholders' Constitution, was before the people. The Suffrage Party made all possible head against it. And among the freemen, the result of all their labors, was 2684 votes against the constitution. Of these, most likely, the 684 were abolitionist and charter men, opposed to both Constitutions; leaving 2000 of them in favor of the People's Constitution, and showing a falling off, of 2927 votes, compared with the number claimed for the People's Constitution. A small portion of those who voted for the People's Constitution gave back; but it will not be admitted by the friends of that constitution, that there were any thing like 2,400 voters of that description. What then, has become of them? The truth is, 4,927 freemen never voted for that Constitution. What by means of carelessness and frauds, and other causes, many hundreds of votes were reported as votes of freemen, which were not freemen. It is believed that, in the city of Providence alone, there were 300 such votes cast. It is known that there were many in other places. And, at the outside, not more than 4,000 freemen voted for the People's Constitution. There are probably nearly or quite, 11,000 freemen in the State, and 8,622 actually voted in 1840; so that, in either case, there is no probability that the People's Constitution received a majority of the whole. But, be as it may, the proof must be required of the Suf-

frage Party; and that proof, to be of any valid force, must come under the sanction of an oath. Without that, it is of no avail, and can do nothing towards establishing the claims of the People's Constitution. Is there any such testimony to offer? It is believed that no warden, moderator or clerk, will pretend it.

N. B.—Since the foregoing pages were put in type, it has been ascertained that Exeter returns 14 votes, and Richmond 44.

CHARGE

OF THE
HON. CHIEF JUSTICE DURFEE,

DELIVERED TO THE GRAND JURY AT THE MARCH TERM OF
THE SUPREME JUDICIAL COURT, AT BRISTOL,
RHODE-ISLAND, A. D. 1842.

PUBLISHED AGREEABLY TO THE FOLLOWING REQUEST :

Grand Jury Room, March 15, 1842.

THE Grand Jurors respectfully tender to the Hon. Supreme Judicial Court their thanks for the learned and appropriate charge delivered to the Grand Jury, this morning, by Mr. Chief Justice Durfee. Relating, as it does, to a subject upon which there is much diversity of opinion, but which all admit to be of momentous interest, the jurors think its publication would be useful at the present time, and do request a copy for the press.

HENRY D'WOLF,
HOWLAND SMITH,
SAMUEL SPARKS,
WILLIAM H. WEST,
S. T. CHURCH,
ROBERT S. WATSON,

THOMAS WILSON,
JOHN J. ALLIN,
JONATHAN MARTIN, 2d.,
EBENEZER GRANT,
IRA B. KENT.

Gentlemen of the Grand Jury :

It is made our duty, by statute, to instruct you in the law relating to crimes and offences cognizable by this court, by giving you publicly in charge our opinion thereon. We are not at liberty to forego this duty, from any feelings of delicacy towards others, or for any considerations of a personal nature. A court is but the organ of the law, and when it speaks, it should announce what the law is, "without fear, favor, affection, or hope of reward." I use the language of the oath which you have just taken, gentlemen ; for that oath does as truly express our obligations as a court, as it does yours as a jury.

The first duty which every person residing within the jurisdiction of this State owes to it, is that of allegiance. It begins with life—with infancy at the mother's breast, and if he continue an inhabitant or citizen of the State, it terminates only with the last breath which delivers the spirit over to its

final account. Allegiance is a duty due on an implied contract—often, however, sanctioned by an oath, but none the less sacred, in the absence of the oath—that so long as any one receives protection from the State, so long will he demean himself faithfully and support the State. All persons, therefore, abiding within this State, and deriving protection from its laws, owe this allegiance to it, and all persons passing through it, or visiting, or making temporary stay therein, owe, for the time, allegiance to this State. One of the highest crimes of which a human being can be guilty, is treason; and treason necessarily involves a breach of allegiance.

From the following resolutions, and the matters to which they relate, there seems to be a peculiar necessity for my calling your attention to this subject, at this time; for, as a court, it is not only our duty to try offences when committed, but to prevent them, if it can be done, by making the law known.

Those resolutions are in these words:

“STATE OF RHODE-ISLAND AND PROVIDENCE PLANTATIONS.

In General Assembly, January Session, A. D. 1842.

Whereas a portion of the people of this State, without the forms of law, have undertaken to form and establish a constitution of government for the people of this State, and have declared such Constitution to be the supreme law, and have communicated such Constitution unto this General Assembly; and whereas many of the good people of this State are in danger of being misled by these informal proceedings, therefore,

It is hereby resolved by this General Assembly, That all acts done by the persons aforesaid, for the purpose of imposing upon this State a Constitution, are an assumption of the powers of government, in violation of the rights of the existing government, and of the rights of the people at large.

Resolved, That the Convention called and organized, in pursuance of an act of this General Assembly, for the purpose of forming a Constitution to be submitted to the people of this State, is the only body which we can recognize as authorized to form such a Constitution; and to this Constitution the whole people have a right to look, and we are assured they will not look in vain, for such a form of government as will promote their peace, security and happiness.

Resolved, That this General Assembly will maintain its own proper authority, and protect and defend the legal and constitutional rights of the people.

True copy:—*Witness,*

HENRY BOWEN, *Sec'y.*”

Gentlemen, whatever I shall say to you touching these resolutions, and the proceedings to which they refer, shall be said with the full and entire concurrence of each member of this court. And it is peculiarly appropriate, in a case like this, that it should be known what the opinion of this court is, so that no man may become implicated in any offence against the State, without a full knowledge of the opinion of this court, as an independent branch of the government, in relation to the nature of the offence and the law which it violates.

I therefore say to you, that, in the opinion of this court, such a movement as that described in these resolutions, is a movement which can find no justification in law; that if it be a movement against no law in particular, it is, nevertheless, a movement against all law; that it is not a mere movement for a change of rulers, or for a legal reform in government, but a movement which, if carried to its consequences, will terminate the existence of the State itself as one of the States of this Union. I will now give our reasons for this opinion.

But, gentlemen, in addressing you upon this subject, I know not but that I am addressing those who have participated in this movement. If this be the case, I beg you and all others with whom you may have acted, to distinctly understand me. Whatever language I may use to characterize the movement, it shall be but the language of the law; it shall mean no impeachment of your or their motives. I will concede to you and to them, if you choose, motives as pure and patriotic, legal attainments and talents as high, as those of the purest and greatest minds that this State ever produced; and still I say, with all proper deference to you and them, that you have mistaken your duties and misunderstood your rights. Deem it not strange that calm lookers on can see where the error lies, better than those who are engaged in the heat of the movement. When great masses move, they move under the influence of excited feelings. When the object is to attain some great political good, real or supposed, the excitement takes for its law of action, some ethereal abstraction, some general theoretic principle, true, perhaps, in its application to certain theoretic conditions of man, but utterly false in its application to man as he is; and endeavors, without regard to present social organizations, to carry that principle to its utmost consequences. Gentlemen, strong heads and patriotic hearts doubtless gave the first impetus to the French Revolution; but does not the progress and issue of that bloody drama tell us that those abstractions, (in which they so freely dealt,) whatever might be their theoretic truth, became false and fiendish in their application

Do we not know that the very masses which were engaged in carrying them out, rejoiced when the iron rule of military despotism came, to deliver them from themselves, and from the incarnate demons which the movement had conjured up?

Gentlemen, when all men are angels and of the same order, these abstractions may be true in all their consequences, but never in their application to man as he is.

With this explanation, I proceed to show the illegality of this movement, and the ruin that it portends. I repeat, that, however patriotic may be the intent, the legal effect of it is, the destruction of the present State, and the construction of a new State out of its ruins.

Gentlemen, what is a State? I ask not for a poetical definition, but I ask for a definition which befits a court of law, which may befit the courts of the Union in which we must be ultimately judged. Strange as it may seem, amid all the controversy which this movement has excited, I have not known this question to be asked, or a definition to be given. Such have been the jarring and confusion of the social elements, that the best minds seem to have uttered their thoughts only in fragments. What, I repeat, is a State? Think ye it is the land and water within certain geographical lines? The child may tell you so when he points at the map; but that is not the State, but only the territory over which the State has jurisdiction. Think ye it is a mere aggregate of neighborhoods within those limits? No, gentlemen, there is something wanting to give them distinctive unity. A mere proximity of habitations never made a State any more than congregated caravans of Arabs when by night they pitch their tents together in the bosom of the desert. Think ye it is the aggregate of inhabitants within such limits? Never. It would be preposterous to call a mere collection of individuals within certain limits, a state. Regarded as a mere aggregate, they are still without unity, and have nothing whereby to bind them together, and enable them to act as an organized whole. No treaty can be made with them; no law can be enacted by them. Think ye that it is the mere rulers or those who have the legislative and executive power in their hands? This, indeed, comes something nearer to our idea of a State; and when we look upon governments abroad, we may look no farther; but surely this does not make a State here at home, under the Constitution of the United States. Here we must not only find a government, but a people so bound together, colligated and organized by law, as to appoint rulers, and to reduce the innumerable wills of the multitude to a legal unit. I think I give you a true description of a State, when I say

that a State is a legally organized people, subsisting as such from generation to generation, without end. giving, through the forms of law, the wills of the many, to become one sovereign will. It is a body politic, qualified to subist by perpetual succession and accession. It is a self subsistent corporation, resting upon its own centre, and it is, under the constitution of the United States, bound, to a certain extent, in its entirety and in all its constituent individual elements, to that common central body politic, which is the corporate people of the Union or body politic of States, which ever it may be. There is, and from the nature of things, there can be no sovereign people without law ; without that unity which the law gives them, whereby they are enabled to act as one ; and consequently there can be no sovereign will that is not expressed through the forms of their corporate existence.

Now can there be a doubt that this is a true definition or description of a State, and that it applies to this State as one of the States of the Union? Lest there should be a lingering doubt, in some reluctant mind, I will verify this definition from the history of the State itself.

The first charter of this State was granted in 1643. It incorporated Providence, Portsmouth and Newport, under the name of the incorporation of Providence Plantations, in Narragansett Bay in New-England. Warwick was subsequently admitted. It was then that the inhabitants of this State first became a corporate people, but dependant on the mother country. In 1660 this corporate people, by their agents, petitioned their sovereign for a new charter. On this petition, the charter in our statute books was granted, and, by the same corporate people, in November, 1663, accepted as their charter or form of government. This charter declared that certain persons named therein, and such as then were, or should thereafter be made free of the company, a body corporate and politic, in fact and name, by the name of the Governor and company of Rhode-Island and Providence Plantations in New-England, in America, and by the same name that they and their successors should have perpetual succession. Now, here was a corporation, and the freemen constituting it, continued their corporate existence, subsisting by succession, still dependent upon the parent government, exercising the powers in the charter granted, holding property of all sorts as a corporate people down to the Revolution. It was then, that those aggressions and claims of the king of Great Britain, which are set forth in the declaration of independence, and which were enforced or attempted to be enforced by the bayonet, threw this corporate peo-

ple upon the natural rights of self preservation. They resisted as a corporate people. It was in the prosecution of this justifiable defence, that this corporate people found it necessary to cut the bonds which bound it to the mother country. It did so. It was its own act, performed by its delegation in Congress, by its legislative body, and by the corporate people itself in every legal form in which it could act. It was this act and this alone, that made us a self-subsistent corporation, body politic, or State. It was this people, acting in its corporate capacity, or by its members, as members, through prescribed forms, that subsequently adopted the constitution of the United States, whereby this State became a member of the Union and its citizens, citizens of the United States.

Does not the history of this State, Gentlemen, verify the definition which I have given? Is a State any thing but a self subsistent body politic and corporate, designed to continue its existence by succession and accession, through all time? If it be any thing else, I neither know nor can conceive what it is. But if it be this, whatever there is of sovereignty must be found in the body politic and corporate, and no where else.

But it has been lately said, by some whose opinions are entitled to great respect, that on the separation from the parent government, a subsequent assent of the natural people was necessary to continue the sovereign power in the corporate people, and that all right in the latter to govern, ceased and passed to the aggregate, unorganized mass of individuals.—Gentlemen, this cannot be so. The act of separation, was the act of the corporate people, and all that was acquired by that act was acquired by the corporate, people and could be acquired by none but a corporate people. None but a corporate people has the capacity to receive and exercise sovereignty. The natural people has not the capacity to inherit, or succeed to sovereignty, though they may create it, by compact, all being parties, or by force, where there is no superior powers to impose restraint. A sovereign will is a unit, is a mere legal entity; it has no where in any civilized country any existence, independent of law. In the constitutional monarchies of Europe, it has a mere legal existence; hence the legal maxim in England, that the sovereign never dies, and can do no wrong. The moment that the sovereign will ceases to be a legal will, and becomes a mere personal will, you have nothing but a master and a body of slaves; you have no State at all, but only the semblance of one.

The sovereign will is a unit. The moment you divide it, you destroy it, and could such a unit pass to thousands of individuals, isolated, independent, and bound together by no com-

mon law as the natural state supposes, and still continue to exist, as a unit, as a one, sovereign will? Never, Gentlemen; to pass it to the unorganized mass is to destroy it. And how fallacious the idea, that the sages of seventy-six annihilated, reduced to nothingness, the sovereignty of every State of this Union, in and by the very act which declared them sovereign and independent! What became of the confederation? What became of the congress that made the Declaration.

Truly, Gentlemen, some strange infatuation has seized upon the age, if we can believe, that, when the Congress of seventy-six declared these colonies, in the words of the Declaration, free and independent States, and that they had full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other things which independent States might of right do, that, at that very moment, every one of these States ceased to exist and crumbled into their natural elements. No, Gentlemen, our fathers understood themselves better than their children appear to understand them. Well may we humble ourselves in the presence of their memory, when we find such strange hallucinations seizing upon the wisest and best of us. They have made large demands upon the admiration of their children; let us take care we do not make demands, equally large, upon the pity of ours. Gentlemen, the definition is correct, it is true to history, and it is true to the Declaration of Independence, and it is true to the Constitution of the United States, which, according to its intent, this State as a corporate people, adopted by its convention.

Gentlemen, let us not deceive ourselves by the various forms which this sovereignty puts on, to carry its will into effect. The government in all its departments, legislative, executive, and judicial, is but the exterior form which this sovereignty puts on, in order to preserve itself and to exercise jurisdiction over its peculiar territory, and all persons and things within it. It is in this way that it extends protection to the whole people, and to every individual man, woman and child within its jurisdiction, and makes them all one with the corporate people, except in the mere exercise of the right of voting. I have recently heard the phrases "the legal people," "the physical people," repeated by those whose opinions are entitled to respect, as if there was a distinction between them. Gentlemen, we are all the legal people, we are all the physical people. Every man, woman and child, not of foreign birth, domiciled within this State, is a citizen of this State, and for that reason also a citizen of the United States. Every man, woman and child has the protection and benefit of all its laws, without distinction,

and for that reason, every one owes it allegiance and fidelity. No one within this jurisdiction can lawfully renounce this allegiance and transfer it to another sovereignty, whether created within this State's jurisdiction or elsewhere. For this reason, each one and all are the legal people of this State, and are so regarded both by the laws of this State and the laws of the United States. We cannot recognize the distinction as having any just foundation in fact, or law. The error lies in the misapplication of language. It is apparent that what they mean, who use the phrase "legal people," is the corporate people. By thus limiting a large and comprehensive phrase, a confusion of ideas is produced and nothing is distinctly seen. The language seems to imply, that all who are not the legal people in this limited sense, are the illegal people, or people without law and in the natural state, and entitled therefore to rely on their physical force; and this idea seems to be strengthened and confirmed by denominating them the physical people. We may all have misapplied these phrases. I myself may have misapplied them, for I make no pretensions to being better or wiser than others. But if we have misapplied them, let us misapply them no longer; let us recollect that the legal people and the physical people, are the same great whole.

But, Gentlemen, if it be true, that the corporate people be the sovereign people, and the forms of government but the instruments of its will, what follows? Why, the moment that the corporate people cease to exist as such, every thing is resolved into its natural elements. This corporate people, whilst it exists, may, of its own will and through the forms of law, which it prescribes by its legislature, put on as many different forms of government, not conflicting with the Constitution of the Union, as it chooses. Its power, for that purpose, is ample, unquestionable. It may change its form as thoroughly and as often as the fabled Proteus; it may extend the right of suffrage to every man, woman and child, and still remain the same legal entity, the same State. But the moment the corporate people of Rhode Island cease to exist as such, whether by force, fraud or voluntary death, corporate Rhode-Island herself ceases to exist, the State is gone. Yes, one of the good old thirteen is gone forever. You may close the grave upon her, you may write "*hic jacet*" upon her tomb, she lives only in history.

It may be asked whether the natural people have not their natural rights, and whether one of these is not the right of establishing a government of their own. I answer, that if we grant you, that the people have a right to violate their allegiance, resolve themselves into the supposed natural condition

of man, and to establish a new State and government, and, if we even admit that it has already in this particular instance been done, it does not at all relieve us, under the Constitution of the United States, from the appalling fact that the old State has ceased to exist, and that the new State is not a member of this Union. We, as the natural people, have accomplished a revolution in which we have originated a new sovereignty, which utterly disclaims all connexion with that corporate Rhode Island which uttered the declaration of independence and adopted the Constitution; and how can we claim to take her place? how can we, as citizens of such a State, be citizens of the United States?

I have heard much, of late, about the right of revolution, and there is no doubt but that in those cases where a people, by the oppression and violence of their rulers, are thrown upon the natural right of self preservation, this right exists, may be exercised, and a revolution be justified; but however justifiable it may be, we should always recollect that if it be revolution, it *is* revolution, and nothing but revolution. There is no possibility of making it half revolution and half not. If you resort to revolution you must adopt it, with all its consequences, be they never so calamitous. These calculations are to be made at the commencement of it, and weighed against the evils which it is proposed to remedy.

Thus, gentlemen, if every thing be conceded that we can ask for, if it be conceded that we have quietly put down the present corporate Rhode Island, and that we have succeeded in establishing this earth-born prodigy in her place, what have we done but broken our allegiance to our legitimate State, broken our allegiance to the United States, and accomplished our complete outlawry from the Union!

But perhaps we may hope that the general government will, without enquiry whether we be or be not the legitimate State, recognize the government in fact, (in legal phrase *de facto*,) as the State. I am apprehensive that in this hope we shall be disappointed. Such a recognition would present a question of constitutional law affecting every State in the union. This could not be avoided: but if it could, it would still present a question of policy equally certain to be decided against us. True it is that the government of the United States does recognise the government *de facto* of a foreign country as the legitimate government or State. And it does so from policy. The government of the union, having no fundamental principle in common with the monarchies of Europe, and in its anxi-

ety to avoid an embroilment in their concerns, recognises those as the government of any country who exercise the powers of government, without questioning the legitimacy of their claims. But how is it with the monarchies of Europe among themselves! what is necessarily their policy? Why, whenever a revolution is effected in any one of them upon principles which endanger their ideas of legitimacy or the permanence of their institutions, millions of swords at once leap from their scabbards, cities are wrapped in flames, fields are deluged with blood and heaped with slaughtered thousands. Think you that it was out of compassion to an exiled Bourbon, that Europe consumed one whole generation in blood and carnage? No, Gentlemen, the struggle commenced, with sustaining their ideas of legitimacy, in which every monarchy of Europe was interested, and terminated in their triumph.

And how much more deeply interested will every State in this union be, all subject as we are to the same common Constitution and government, in a question of State legitimacy? For what is the principle to be established by the recognition of the new government as the State? It presents itself in these facts. A portion of the people of this State, claimed a further extension of suffrage, and an equalization of representation for the benefit of several towns. This, the legislature did not grant at their request, but called a convention with a view of establishing a Constitution which might meet every reasonable demand. This, I believe to be about the extent of our grievance. And now, before that convention had accomplished their task, we, backed by the physical force of numbers, take the powers of government into our own hands, frame a Constitution, declare it to be the supreme law of the land, and overturn, not merely the government of the State, but the State itself. Now, as a mere matter of policy, could the delegations of the several States in congress establish the principle, that because of such a grievance, mere numbers are above law and have a right to overturn the State of which they are citizens? Let us try to call this a grievance, and then how many thousand grievances are there of greater magnitude in every State, and if they are to be in this way redressed, the stability of our institutions is at an end. Have we no questions touching domestic servitude? None touching the social relations? None touching the most active and powerful of all principles, conscience and religious faith? May not protestantism, in a moment of infatuation and alarm, in this manner establish itself as the religion of the State? May not Romanism then rally, put down protestantism, and establishing itself in turn, nail the cross

to every steeple, place a priest at every altar, and a teacher in every school, and compel us to support all by taxes? May not the unequal distribution of property in some States be found a grievance? May not banks in others become obnoxious? May not certain forms of taxation become odious? May not the debts of the State bear heavily? Let this principle of revolution, by an unauthorized and irresponsible movement of masses, become an element of the constitution of the Union, and any State may be overthrown, upon any pretext or petty grievance, real or supposed. And can any one believe that from policy the government of the Union would recognise such a principle? Never—gentlemen—never—until that government, desirous of bringing about a consolidation of these States, chooses to put every element of disorganization into operation upon them.

But if the new government cannot be recognised from policy, the next question is, can it be recognized on legal and constitutional principles? What says the Constitution? "New States may be admitted by Congress into this Union, but no new State shall be formed or erected within the jurisdiction of any other State, without the consent of the Legislatures of the States concerned as well as of the Congress." Is it said that this provision contemplates a case where only a part of the State's territorial jurisdiction may be occupied by the newly formed State? Very probably the framers of the Constitution had such a case in mind, but so much the worse for the case in hand. Does not an article which forbids any part of a State's territory being so appropriated, for a stronger reason forbid the occupation of the whole, and the absolute destruction of the legitimate State? Can you take the whole without its parts? Gentleman, it will not be respectful to your good sound common sense to spend a moment's time on this point.

Again, by an express provision of the same Constitution, almost immediately following the above, and to be considered in connexion with it,—the United States are bound to guaranty to every State in this Union, a government, and a republican form of government. Will this guaranty be fulfilled by suffering this Government be to annihilated, and annihilated by a power which, by the very terms of the article first above mentioned, can no more be recognised as corporate Rhode-Island than Texas or Algiers.

Tell us not of the admission of Michigan. Michigan was a territory. No pre-existent State was subverted,—we know of nothing in the Constitution that forbids Congress bestowing upon any territory that State form of government which is

guaranteed to every State, and which, if reduced by this movement to the condition of a territory, it may be our humiliating lot in some way to receive at their hands.

But, gentlemen, Congress is not the only tribunal before which we shall have to appear. It is the peculiar province of the Supreme Court of the United States, to decide in the end all constitutional questions, and questions touching State rights. I will, therefore, state to you what must, necessarily, according to the common course of judicial proceedings, be the process by which this question will be determined in the courts of the Union. When the existence of a State has been constitutionally recognised, the courts of the United States may well recognise the government *de facto* as the government *de jure*, in other words the government in fact as the government in law. They may well enough presume, that those who exercise the powers of the State are the legal officers of the State, and leave the question of the legality of the election to be settled by the State functionaries appointed to that special duty; but before there can be any such presumption, there must be a State—a State known to the Constitution and laws of the Union. There is no such thing as presuming the existence of such a State. A *de facto* State is as truly as a *de facto* corporation, an absurdity in terms. A State must have its fundamental laws or constitution known to the Constitution of the Union of which it is a member, and in accordance with it, and to talk of a *de facto* law is to talk profound nonsense.

To prove then the existence of the new State, or even to prove the existence of any of its officers, you must present to the supreme court of the Union this instrument which has been proclaimed as the supreme law of this State, and you must shew that it had a legal origin.

The question will not be who voted for it, or how many, but what right any body had to vote for it at all as the supreme law of Rhode Island.

In the records of the true constitutional State of Rhode Island, you can nowhere find any law, any authority countenancing such a proceeding.

This the friends of the supposed Constitution must themselves confess. Indeed they must boldly avow, that it was not only voted for without any such authority, but against the whole body of the legislation of the State, whose fundamental laws have all been recognised directly or impliedly by the constituted authorities of the Union, and by the very court that will be called upon to decide this question. And can we think

that this court will lose its firmness, and tread back its steps, on account of the delusion of some ten or fifteen thousand persons in this State, and establish a constitutional principle of disorganization, which must eventually become predominant in every State, and reduce all to ruin? It is folly to anticipate such a decision, and wickedness to hope for it.

This pretended Constitution then does not spring from constitutional Rhode Island—from that Rhode Island known to the Constitution of the United States as the State of Rhode Island and Providence Plantations; it is without legal authority, and of no more value in the courts of the Union than so much blank parchment. You are then without a Constitution—you are without fundamental laws—you have no officers that can be recognised as officers *de facto*, for there are no legal and constitutional duties for them to discharge. You have no legislature—no State legislation—in one word you have no State, and are reduced to the condition of a mere territory of the Union, without the benefit of territorial laws.

Now, gentlemen, what are the consequences? it is well worth while to enquire.—We stand upon the brink of an awful gulf. We are about to take the leap, and we may well feel some anxiety to look down into it, and obtain a glimpse of what sort of a Tartarus it is into which we are about to make the final plunge.

Gentlemen, I will whisper a few questions to you, all of which, I dare not, for the peace of this State, answer even in a whisper. There is too much combustible material in this wide-spread union—too many daring and reckless adventurers of all sorts. Gentlemen—it is the faith of the untutored savage, that certain birds of the air, and beasts of the desert, are endowed with something like a prescience or foreknowledge of the coming banquet which human strife is to provide, and, that some days in anticipation of the event, they come from all quarters of the heavens, and from all the far depths of the forest, and congregating in the neighborhood of the appointed place, eagerly await the approaching carnage. I do not want to be heard or understood by such as these. Therefore, will I not answer all the questions that I may put, but simply shew you that there are such questions.

When corporate Rhode-Island ceases to exist, what becomes of her delegation in Congress?

What becomes of her bill in chancery which she filed, claiming through her charter, and through that only, a portion of territory within the jurisdictional lines of Massachusetts? I mention this not for its importance, but for its illustration, and

because in the event supposed the question must necessarily arise. What becomes of the public property of all sorts? Your court houses? Your jails? Your public Records? Public Treasury, bonds and securities of all sorts, which belong to the present corporate Rhode-Island and to her only, and can pass from her only by her Legislative consent? What becomes of the actions now pending on the dockets of every court in this State—bills of indictment for crimes committed or that may be committed? What becomes of your State Prison, and your convicts, from the wilful murderer to the petty thief? What becomes of your corporations of all sorts? Of your corporate towns and their records? Nay, are there not questions touching life, liberty and individual property? I dare go no farther; perhaps I have already gone too far. But whatever answer may be given to these questions, (and answered they must ultimately be in the Supreme Court of the Union) the bare fact that these questions must be raised, tried and decided, is sufficient to send a thrill of horror through the heart of every man, woman, and child in this State.

And all this for what? For if revolutions may be justified, we may well put the question. It is said to be for an extension of suffrage and an equalization of representation. How many of you have ever felt the want of this to be so great as even to sign a petition to the General Assembly on the subject? If this be a grievance at all, is it not the merest trifle compared with the calamities through which we must pass, in order to redress it in the mode which this movement has proposed? If it be a grievance, it has scarcely been felt, and a legal, and legitimate remedy is already before you from the State's convention. Is there any other? Did we ever petition this government for any favor which reasonable men might ask for, no matter what party was in power, that was not cheerfully granted? Are we overtaxed by this State? Is there any oppression which can be named to justify a revolution? Have not we and our fathers all lived in peace and happiness under the laws of this State, from its first establishment to the present day? Did not our fathers establish themselves here in a howling wilderness and under the protection of that distinctive principle of their government, religious liberty, enjoy peace and quiet and happiness, whilst the sister colonies were shedding blood, and persecuting their fellow men for conscience sake? Did they not, under this State and for this State, utter the declaration of independence, and led on by her Greenes and Olneys, go forth in array of battle and shed their blood on a hundred fields? Did they not gloriously and triumphantly se-

cure to us the rights which we ever since have and now enjoy under the protecting laws of this State? But they have done their work—they have passed through the toils and sufferings of their day, and laid them down in the quiet grave where the wicked cease from troubling, and the weary are at rest. They have left the fruits of their labors as an inheritance to us. May their sainted spirits join with us in a prayer to the Almighty Father of all spirits, to save us from this fatal delusion!

Gentlemen, the meaning of the word *revolution* in this case is very different from its meaning, when it designates the conflict between the colonies and the mother country. That was a conflict between corporate bodies on this side of the Atlantic against corporate Britain on the other. But revolution in this case means a conflict among the very elements of society. It proposes to realize, here in Rhode-Island, the horrors of the French Revolution. It proposes to arm neighbor against neighbor, friend against friend, brother against brother, father against son, and son against father,—and all this for what? can any one tell us?

We may flatter ourselves that we are a people too enlightened and too good to pass into the excesses which have marked revolutions in every age; but, gentlemen, in all ages of the world, and in all countries, excited passion, in its extremes, is the same—the individual man, however enlightened and good he may be, as an individual, is merged in the mass to which he belongs, he loses his freedom, he blends with it, whilst the mass itself becomes a mere brute force, which, under the influence of the idea or passion which actuates it, goes on and on—heedless of the ruin which it makes, heedless of its own destiny, to its final dissolution or utter annihilation. Would to God, that men would learn something from history! But it has been well observed, that we ever place the lantern in the stern, and not at the prow. It sheds its light only on the tumultuous billows of the past. We there see the wrecks of nations that have committed themselves to anarchy, tossing and heaving on the stormy surge. Yet on we go, exulting in our superiority over our predecessors, heedless of the rocks beneath the bow, until the billow on which we are borne sinks beneath us and dashes us into fragments.

It may be thought that I am indulging in feelings not usual to the Bench; but, gentlemen, there are occasions when humanity may be excused for rising above the petty etiquette of official dignity, when the formalities of the judge may be lost in the realities of the man. And if ever such an occasion pre-

sented itself in any State, it now presents itself in this. It would be our duty, as good citizens, but it is imperiously our duty, as sworn conservators of the peace, to tell you what is law, and what is not law. This duty we are not at liberty to forego.

I therefore say to you, and all others duly qualified, that it will be lawful for you to vote on the Constitution now submitted to you by the State's Convention, and that if it be adopted, any person in this State, commits a breach of allegiance who wilfully fails to support it. If it be not adopted, it will be our duty still to adhere to that compact of our ancestors called the Charter, as that sheet anchor at which our beloved State has triumphantly ridden out many a storm, and can as triumphantly ride out this. And as to that instrument, called "the Peoples Constitution," however perfect it may be in itself, and however strong may be the expression of public opinion in its favor—yet, standing as it does, alone and without any legal authority to support it, it is not the supreme law of this State; and those who may attempt to carry it into effect by force of arms, will, in the opinion of this court, commit treason—treason against the State—treason perhaps against the United States—for it will be an attempt by the overt act of levying war, to subvert a State, which is an integral part of the Union; and to levy war against one State, to that end, we are apprehensive will amount to the levying of war against all.

Gentlemen, do not misapprehend us,—we make not this declaration by way of denunciation or threat, but simply because it is our duty to declare the law. As a court of law, were it even in our power, we would not act on any man's fear, save on that fear of which every good citizen may be proud,—the fear of doing a wrong or illegal act. And we make this declaration with the hope that those gentlemen who have engaged in this movement—for many of whom a personal acquaintance enables us to cherish sincere respect and esteem—will be induced to pause and to reflect,—to reflect deeply.—We admit their courage, but may they use it in a good cause, and without following the example, adopt the sentiment of Macbeth, when urged to commit treason and murder—

*"I dare do all that may become a man;
Who dares do more, is none."*

PROSPECTUS

Of a new and highly interesting work in two volumes, to be published in "THE ONLY DEMOCRATIC CITY," as soon as a sufficient number of subscribers be obtained to warrant the undertaking. The work will be entitled

DORR-IANNA,

or a *logical, historical, tragical, wag-ical, sympathetical and democratical* account of the late glorious Revolution in Rhode-Island: containing a true and complete history of all the sayings, doings, adventures and brilliant achievements of his Excellency Thomas W. Dorr, Governor and Commander-in-chief of Rhode-Island and the Providence Plantations.

BY A SYMPATHISER.

CHAPTERS OF CONTENTS.

VOLUME FIRST.

CHAPTER FIRST.

Discovery of Rhode-Island—time uncertain, but supposed to have been before any body went there to live—*quere*, unless discovered before any body went there, how could ignorant savages have found the road to such a little out of the way place?—some account of the supposed inhabitants prior to its discovery and settlement—animals and vegetables—King Charles and his charter—Roger Williams a humbug—*digression* to animal magnetism—curious anecdote of a boy whose mother didn't know he was out—why a goose holds its head when going in a barn door—reflections on hay stacks—end of chapter first.

CHAPTER SECOND

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CHAPTER THIRD.

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CHAPTER FOURTH.

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Dorr!; reasons for bringing this interesting work to a close; farewell to the reader; end of the second volume.

Newspapers will please copy and send bill to Publisher.

Editors who will give the above Prospectus one conspicuous insertion, will be entitled to a copy of the work at market price.

A few years ago, the Loco-focos were in power in Rhode-Island. Why did they not then take proper steps to extend the right of suffrage? and why do they not extend it in Virginia, where a property qualification is also necessary to entitle a man to a vote? We think the right of suffrage should be extended in both those states, if the people are in favor of it: but we can see no reason why oft defeated office hunters should be allowed to take the government into their own hands when there has been no change thereof, according to the way pointed out by the standing authorities of the land.-- *Chesler Examiner*.

The newspapers are filled with humorous comments upon the recent proceedings in Rhode-Is-

land. The late *Governor Dorr* and his party, by their valliant conduct, have furnished an amount of amusement to the public almost unparalleled. They have reminded us of a *war song* written some years ago, from which we extract the following stanzas:

"Lift our triumphant banners high,
And give our bugle breath!
Onward, and be the battle cry
For liberty or death.

But what is yonder dusky cloud?
What is yon bold array?
It is the Dutch! Oh, what a crowd!
Good Lord! *Let's run away!*

A DOLEFUL DITTY ABOUT A VICTORY.

Dorr! Dorr:
"GOVERNOR" Dorr!
Thou champion of freedom!
Thou Ajax of war!
What ailed thee?
What quailed thee?
When no man assailed thee,
And freedom's broad banner was flung to
the breeze?

Where, where,
Where were thy glories?
So towering,
So lowering,
That scared all the tories.
Till King, with his crews,
Stood and shook in their shoes?

Why, why,
Redoubtable Governor!
Head o' "the People"
Like crow on a steeple—
Oh! tell, tell us why,
At the first tory hail
Did thy heroes turn tail?

Say, say,
Did their stout rub-a-dubs,
Dorr! Dorr!
Give thee the mulligrubs?
Did thwack of the drum
Bring a pain in thy ——— thumb?
Or the bright glance of BLODGET
Compel thee to dodge it?

Pray, pray,
Great DUTEE J.
Pray tell to what hole,
For offal or coal,
In what privy or sink,
Did "the Governor" sink?

Hark! Hark!
To yon herd in the Park,
(Much like that in the ark,)
How they rant!
How they cant!
How they spout and they roar
For GOVERNOR DORR:

- Print! print!
 * Print Proclamations!
 "Away,
 "Away,
 "With qualifications!
 "With gruff rage
 "For suffrage,
 "Down, down with the charter!
 "To the ditch
 "With the rich!
 "And let 'Kings,'
 "And such things,
 "Come tumbling arter!

"To Charlie the Second
 "Shall *Freedom* be reckon'd?
 "No! never!
 "Drive, drive your deep furrows
 "Through all rotten boroughs!
 "The PEOPLE forever!

"Never fear!
 "We are here.
 "Make a fuss!
 "Call on us!

"By hundreds and thousands we'll come, (or
 we'll *send* you.)
 "From Uncle Sam's hirelings, full quick, to
 defend you.
 "Let 'em fire but one gun—
 "My eyes! how they'll run!"

CAM! CAM!

Why do you stare, man?
 Are you not

"The People's" chairman?
 Not now of Ways and Means Committee,
 (Mobs own no means, the more's the pity!)
 But chairman still resolv'd to be,
 For *such* a chair didst cross the sea,
 Big CHURCHILL C.!

A SONNET TO THAT SWORD.

That sword! That sword!—
 Where is *that* sword?
 Why in its scabbard sleeps
 That trusty blade, that blood-bathed steel,
 While outraged suffrage weeps?
 That sword! That sword!—
 Thrice valorous knight—
 Thine own right arm did wield;
 Why drinks it not the foeman's blood,
 On yon deserted field?
 That sword! That sword!
 A recreant blade,
 That did the braggart play—
 It boasted of its deeds of blood,
 And then--*it ran away!*
 That sword! That sword!
 Once *sworn* to drink,
 Of Chartist blood, its fill,

VAN! VAN!
 VANDERPOEL!
 Don't you feel
 Much like a fool?
 Great A,
 Little A.
 R, O, N,
 What did you fix
 Your hopes upon?
 SLAMM! SLAMM!
 Don't you feel queer-a?
 Pray, say,
 Is this a "*New Era*"?

AH STEPHEN!
 STEPHEN ALLEN!
 Shamed by thyself.
 How art thou fallen!

Senator, Senator,
 ALLEN the other!
 Dost thou not look
 Much like thy brother?

Sirs with a petticoat,
 And without,
 Was this a race?
 Or was it a rout?

But cannon's roar
 Is heard no more;
 Peace shuts her downy wing:
 O'er rescued LAWS,
 And ORDER's cause,
 Exulting Freemen sing!

Sing! Sing!
 Brave GOVERNOR KING,
 And Providence Plantations;
 Let steeples ring,
 And TRAITORS swing,
 While good men hold their stations

Now lies inglorious on the shelf,
 Or buried in the till.

That sword! That sword!
 Brave Governor Dorr--
 A recreant proved to thee;--
 Thou couldst not check its rapid speed,
 When terror bade it flee.

That sword! That sword!
 Brave Governor Dorr.
 Thy well *flesh'd* arm did wield,--
 'Twas not thy fault, the coward steel,
 Ran trembling from the field.

That sword! That sword!
 That patriot sword--
 Shall from its scabbard leap
 Once more;--when rations may be scant;--
 To slaughter--*calves and sheep!*

C H A R G E

OF

MR. JUSTICE STORY,

ON THE

LAW OF TREASON,

DELIVERED TO THE

**GRAND JURY OF THE CIRCUIT COURT OF THE UNITED
STATES,**

HOLDEN AT NEWPORT,

FOR THE RHODE-ISLAND DISTRICT, JUNE 15, 1842.

PUBLISHED AT THE REQUEST OF

THE GRAND JURY, AND THE RHODE-ISLAND BAR.

**PROVIDENCE:
PRINTED BY H. H. BROWN.**

1842.

At a meeting of the Members of the Bar of the State of Rhode-Island, in attendance upon the United States Circuit Court, holden at Newport, on the 15th day of June, A. D. 1842, HON. HENRY Y. CRANSTON, Chairman, and GAMALIEL LYMAN DWIGHT, Esq. Secretary, the following Resolutions were unanimously adopted :—

Resolved, That John Whipple, Esq. be a committee to wait upon the Presiding Judge of the United States Court for the R. Island District, and request him to furnish a copy of the able Charge by him this day delivered to the Grand Jury, for publication.

Resolved, That the proceedings of this meeting be signed by the Chairman and Secretary, and published.

HENRY Y. CRANSTON, *Chairman*.

GAMALIEL LYMAN DWIGHT, *Secretary*.

The following is the reply of Judge STORY to the request of the Bar, communicated through Mr. Whipple.

NEWPORT, JUNE 16, 1842.

DEAR SIR :

I have the pleasure to acknowledge by your kindness the vote of the Bar, (coincident with that of the Grand Jury,) requesting a copy of the Charge delivered yesterday to the Grand Jury. I feel honored by the application, and regret that I am unable to comply with the request.— That Charge was wholly extemporaneous and without premeditation, except what referred to the Law of Treason. I am utterly unable to recal either the thoughts or the language in which it was expressed, in any manner, which would make it a just representation of what fell from me. The exposition of the Law of Treason, which was brief, I will certainly write out, if it shall be thought important to a just view of the subject under existing circumstances.

I beg through you to return my best acknowledgments to the Bar, for the honor done me, and to assure you and them that I remain,

With the highest consideration and respect,

Truly your and their obliged friend and servant,

JOSEPH STORY.

JOHN WHIPPLE, Esq.

CHARGE.

MR. Justice STORY, after some preliminary observations upon the late alarming crisis of the public affairs in Rhode-Island, and paying a just tribute to the excellent institutions and past history of the State, proceeded to say to the Grand Jury:

This is the first occasion, for many years, in which it has become necessary for me, in addressing the Grand Jury, to state the doctrines of law applicable to the crime of Treason. Happily, there is at the present moment a pause in the public mind, which I trust may be the harbinger of a speedy return to a permanent course of peace, prosperity and general confidence among the citizens of your State. It is impossible for me not to feel a deep sense of the dangers through which you have so recently passed, and of the painful duties which might have devolved upon this Court, in certain contingencies, which seemed at one moment about to be fearfully realized. It may not, therefore, be without some use, to call your attention to the LAW OF TREASON, and to distinguish between the cases, where the crime is properly a crime against the United States, and the cases, where it properly constitutes a crime exclusively against the State. Both may be, indeed, (as will be presently shown) mixed up in the same transaction; or rather, the Treason against the State may, under certain circumstances, be merged in the

Treason against the United States. Still, there is a broad and clear line of distinction between them, in many cases, which I will endeavor briefly to explain and illustrate.

The Constitution of the United States has declared that, "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." There must, then, to constitute the crime, be a levying of war against the United States, in their sovereign character, and not merely a levying of war exclusively against the sovereignty of a particular State.

What, in the sense of the Constitution, is to be deemed a levying of war? I take it to be clear that it is not sufficient, that there should be an assembly of persons who are met merely to meditate and consult about the means of levying war at some future time, or upon some future contingencies, without any present force. That would amount to a conspiracy to levy war; but a conspiracy to levy war, and an actual levy of war are distinct offences. To constitute an actual levy of war, there must be an assembly of persons met for the treasonable purpose, and some overt act done, or some attempt made by them with force to execute or towards executing that purpose. There must be a present intention to proceed in the execution of the treasonable purpose, by force. The assembly must now be in a condition to use force, and must intend to use it, if necessary to further, or to aid, or to accomplish the treasonable design. If the assembly is arrayed in a military

manner—if they are armed, and march in a military form, for the express purpose of overawing or intimidating the public—and thus they attempt to carry into effect the treasonable design, that will, of itself, amount to a levy of war, although no actual blow has been struck, or engagement has taken place. This is a clear case ; but it is by no means the only case, (for many others might be stated) in which there may be an actual overt act of levying war. I wish to state this only as one case upon which no doubt whatsoever can be entertained.

In respect to the treasonable design, it is not necessary that it should be a direct and positive intention entirely to subvert or overthrow the Government. It will be equally Treason, if the intention is by force to prevent the execution of any one or more general and public laws of the Government, or to resist the exercise of any legitimate authority of the Government in its sovereign capacity. Thus, if there is an assembly of persons with force, with an intent to prevent the collection of the lawful taxes or duties, levied by the Government—or to destroy all custom houses—or to resist the administration of justice in the Courts of the United States, and they proceed to execute their purpose by force—there can be no doubt that it would be Treason against the United States.

But it is not every act of Treason by levying war that is Treason against the United States. It may be, and often is, aimed altogether against the sovereignty of a particular State. Thus, for example, if the object of an assembly of persons met with force is to

overturn the Government or Constitution of a State—or to prevent the due exercise of its sovereign powers, or to resist the execution of any one or more of its general laws, but without any intention whatsoever to intermeddle with the relations of that State with the national Government—or to displace the national laws or sovereignty therein, every overt act done with force towards the execution of such a treasonable purpose is Treason against the State, and against the State only. It is in no just sense a levying of war against the United States. But Treason may be begun against a State, and may be mixed up or merged in Treason against the United States. Thus, if the treasonable purpose be to overthrow the Government of the State, and forcibly to withdraw it from the Union, and thereby to prevent the exercise of the national sovereignty within the limits of the State, that would be Treason against the United States. So, if the troops of the United States should be called out by the President, in pursuance of the duty enjoined by the Constitution, upon the application of the State Legislature, or the State Executive when the Legislature cannot be convened, to protect the State against domestic violence, and there should be an assembly of persons with force to resist and oppose the troops so called out by the President, that would be a levy of war against the United States, although the primary intention of the insurgents may have been only the overthrow of the State Government or State laws. These cases sufficiently point out the distinction to which I have alluded, and it is not necessary upon the present occasion to go into more minute details.

FACTS

INVOLVED IN THE

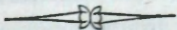
RHODE ISLAND CONTROVERSY

WITH

SOME VIEWS

UPON THE

RIGHTS OF BOTH PARTIES.



BOSTON:

PUBLISHED BY B. B. MUSSEY, No. 29 CORNHILL.

1842.

FACTS

RHODE ISLAND CONTROVERSY

SOME VIEWS

(Printed by S. N. Dickinson, }
{ 52 Washington-st. Boston, }

BOSTON:

PUBLISHED BY R. B. MURPHY, 22 CORNHILL.

1842.

RHODE ISLAND CONTROVERSY.

RHODE ISLAND is the theatre of a great and angry controversy; a controversy involving issues of a wider magnitude than have before agitated the Confederation since the organization of the government. It is a collision not of men but of *principles*, and as such, has drawn the attention and excited the interest of the great body of the American people. Were it a merely *local* quarrel, it would be left to the decision of the parties more immediately interested; but those who deem it such know but little of the merits of the contest.

The issue is, whether all power is embodied primarily in the people, or in the instruments of their creation; whether man, of himself, has the inherent and inalienable right to participate in the government because he *is* a man, or because of collateral circumstances; whether the governed can 'alter and amend' the government, or whether the government may, at its own option, be despotic in its power and perpetual in its existence; in a word, whether the rallying shout of our fathers — "The voice of the people is the voice of God" — is wild and visionary fanaticism or sober truth. The whole superstructure of this great Union is based upon the recognition of the supremacy of the people; take that away, and it must crumble to dust, and disappear "like the

baseless fabric of a vision." Are not, then, the whole people interested, deeply and personally, in the result of this controversy, and ought the popular sympathy, we ask, to be circumscribed by the metes and bounds of the State of Rhode Island?

The two immediate parties to the controversy embrace almost the entire adult male population of the State. One party claims, that the Charter given to the colonies of Rhode Island by Charles Second, and the laws and usages that have grown from it during the last two centuries, possess paramount authority; and the other, that all power vests primarily in the people. The one claims that there can be no binding law enacted unless it emanates from the Charter government; the other, that the people are sovereign, and therefore competent to amend, alter, or abolish the forms of government that they or their ancestors have established. Under the Charter is ranged the great body of those who administer the government it establishes, and opposed to them are all those whom the Charter and the laws under it disfranchise. The former is the more wealthy class, and the latter the more numerous, but both are powerful from their numbers, their talents, and their character. The latter demand, and have demanded for nearly half a century, participation in the government, free suffrage and equal representation. The former have fixed the standard of qualification to citizenship at one hundred and thirty-four dollars in real estate, while the representation remains the same as provided for in the Charter.

Within the past two years, the immediate measures have been taken which have placed the two parties in their present hostile attitude.

More than a year since, the Charter party made the preliminary arrangements for the call of a Convention of delegates, to be elected *from and by the qualified freeholders*, for

the framing of a Constitution. Soon after the Suffrage party called a Convention of delegates to be elected *from and by the whole male adult people* for the same purpose. Both bodies met, and each proceeded to frame a Constitution;—the Suffrage Convention on the basis of free suffrage and equal representation, and the Charter Convention upon that of suffrage and representation founded on property. That of the former was submitted to the people before the latter body had finished its labors; and the strong support afforded, if not clear adoption of that Constitution, induced the Charter Convention to extend the right of suffrage nearly as claimed, still leaving the representation unequal. Their Constitution was rejected by a decided popular vote, and that of the Suffrage Convention was declared by its framers and adherents to have been adopted by a majority of the people, and to be the law of the State; and under it a new government was formed.

There are now, therefore, existing in the State two distinct powers. Both have appealed for aid to the General Government, and should more serious troubles ensue, that aid will be rendered to one of the parties. When that event takes place, if ever, we cannot doubt on which side the popular sympathy will tend. Whatever may be said by hackneyed politicians of the degeneracy of the masses, there yet burns in the public mind the inextinguishable love of liberty. Let but an unholy hand touch the GREAT PRINCIPLE, and, as in olden times, the beacon fires will blaze upon every hill top, and a million breasts surround it as a bulwark.

The principal facts on which the controversy is based, we will now give as succinctly as possible.

The first settlements in the State were commenced in 1636, by Roger Williams and others, and were soon after called the Rhode Island and Providence Plantations.

Other settlements, not long after, were made within the territory of the State, by several companies under different grants. Providence Plantations, Warwick, and the island of Rhode Island, each had their separate government. The inconvenience of this was early felt, and voluntary associations under the government were several times entered into, and as often dissolved.

In 1643, '4, Sir Henry Vane, who was one of the Commissioners of Plantations, with the Earl of Warwick, granted the first charter to the State, by authority of Parliament. By this charter, the inhabitants of the towns of Providence, Portsmouth, and Newport, were incorporated by the name of "THE INCORPORATION OF PROVIDENCE PLANTATIONS, IN THE NARRAGANSETT BAY, IN NEW ENGLAND," with power to rule themselves and such others as should thereafter inhabit within any part of the tract of land mentioned therein, by such a form of civil government as by voluntary consent of all, or the greater part of them, they should find most suitable to their estate and condition. These powers had brought one restriction, which was, that "said laws, constitutions, and punishments, should be conformable to the laws of England, so far as the nature and constitution of the place would admit."

The union under this charter was in a few years broken; but in August, 1654, a meeting of commissioners from all the towns was holden at Warwick, when articles of reünion were agreed upon, and the government under the charter, as at first, reorganized.

The restoration of Charles II., in 1660, caused the inhabitants of this colony to fear, that the rights which they had obtained from Parliament, when at war with the father, would not be respected by the son. They had reason also to expect, that the same exertions which had been made by their neighbors to produce the recall of their charter, would now

be repeated, and with more success. They, therefore, adopted measures to procure the favor of their new king, and a confirmation of their privileges. A new commission was issued to Mr. John Clark, who was then in England, appointing him their agent for the preservation of their chartered rights and liberties. Three from each town were appointed to draw up an humble petition to His Majesty, to correspond with their agent, and to do what seemed to them best to accomplish their wishes in this respect. The new king was disposed to forget past animosities, and unite in himself the affection of all parties. A new charter was granted on the 8th of July, 1663, and was received in November, 1663, by the court of commissioners at Newport. This charter was almost in word and letter as solicited by their agents.

Its provisions, so far as they in the least bear on the question now at issue, we shall here copy at length, and omit only those which have no relevancy to the controversy.

CHARTER.

The charter, after the manner of those days, is very verbose. After naming the considerations which moved His Majesty to grant it, one of which was that the colonists had brought under subjection to the government the Indians, who, as the Charter reads, "we are informed are the most potent princes and people of all that country," it provides,

First. "That our Royal will and pleasure is, that no person within the said Colony, at any time hereafter, shall be anywise molested, punished, disquieted, or called in question, for any differences in opinion in matters of religion, and do not actually disturb the civil peace of our said Colony; but that all and every person and persons may, from time to time, and at all times hereafter, freely

and fully have and enjoy his and their own judgments and consciences in matters of religious concernments, throughout the tract of land hereafter mentioned, they behaving themselves peaceably and quietly, and not using this liberty to licentiousness and profaneness, nor to the civil injury or outward disturbance of others; any law, statute or clause, therein contained, or to be contained, usage or custom of this realm to the contrary hereof, in anywise notwithstanding."

Second. That the petitioners "and all such others as now are, or hereafter shall be, admitted and made free of the Company and Society of our Colony of *Providence Plantations*, in the Narragansett Bay, in New England, shall be from time to time, and forever hereafter, a *body corporate and politic*, in fact and name, by the name of The Governor and Company of the English Colony of Rhode Island and Providence Plantations, in New England in America."

It provides "That for the better ordering and managing of the affairs and business of the said Company and their successors, there shall be one Governor, one Deputy-Governor, and ten assistants, to be, from time to time" chosen out of the Freemen of the Company, and that until such choice could be made, these officers were to be appointed by the Crown.

"And that forever hereafter, twice in every year, (that is to say,) on every first Wednesday in the month of May, and on every last Wednesday in October, or oftener, in case it shall be requisite, the assistants, and such of the freemen of the said Company, *not exceeding six persons for Newport, four persons for each of the respective towns of Providence, Portsmouth and Warwick, and two persons for each other place, town, or city*, who shall be from time to time, thereunto elected or deputed by the major part of the freemen of

the respective towns or places for which they shall be so elected or deputed, shall have a general meeting or assembly, then and there to consult, advise and determine, in and about the affairs and business of the said Company and Plantations."

"And also to regulate and order the way and manner of all elections to offices and places of trust, and to prescribe, limit and distinguish the numbers and bounds of all places, towns or cities within the limits and bounds herein after mentioned, and not herein particularly named, who have or shall have, the power of electing and sending of freemen to the said General Assembly."

And "That yearly, once in the year forever hereafter, namely, the aforesaid Wednesday in May, and at the town of *Newport*, or elsewhere, if urgent occasion do require, the Governor, Deputy-Governor, and Assistants of the said Company, and other officers of the said Company, or such of them as the General Assembly shall think fit, shall be, in the said General Court or Assembly to be held from that day or time newly chosen for the year ensuing, by such greater part of the said company, for the time being, as shall be then and there present."

"And further, Our will and pleasure is, that in all matters of public controversy, which may fall out between our Colony of Providence Plantations and the rest of our Colonies in New England, it shall, and may be lawful to and for the Governor and Company of the said Colony of Providence Plantations, *to make their appeals therein to us, OUR HEIRS AND SUCCESSORS, for redress in such cases within this, our realm of England.*"

It will be seen from the foregoing general view of the Charter, that it provides for a government consisting of a Governor, Deputy Governor, and ten Assistants, to be chosen yearly by the freemen; also certain Representatives, not

exceeding six for Newport, four each for Providence, Warwick and Portsmouth, and two for each other town or city, to be chosen by the majority of freemen in the several towns; that the Governor, Deputy Governor, Assistants, and Representatives, were constituted by the terms of the Charter, one body, denominated the General Assembly, and that there was granted entire religious freedom and unlimited right of suffrage; that to the General Assembly was delegated the power to admit as freemen, and consequently to the right of suffrage, as many persons as and whom they saw fit, without requiring any qualification whatever, and to order the manner and way of electing all public officers; and that all questions between this and the other colonies were to be submitted to King Charles or his successors.

Under this Charter the government has nominally continued and acted. And it is among the remarkable facts in the great history of revolutions, that though this gallant little State fought with unsurpassed courage the mercenaries of England, and saw the other colonies scout their worthless charter parchments, Rhode Island adhered, with the utmost tenacity, to its royal Constitution, and preserved it with the care and veneration shown to the crown jewels of the Czar.

THE CHARTER ASSEMBLY.

We proceed to give a synopsis of those acts of the General Assembly, which constitute a material part of the data upon which the controversy is based.

By an act of the General Assembly in May, 1664, voting by proxy was authorized, and a plurality of votes rendered sufficient for an election.

In 1666, an act was passed delegating to the towns the power to admit freemen.

In 1724, an act passed the General Assembly, requiring electors to have a freehold estate of £100, or 40 shillings rent, and at the same time the eldest son of a freeman was declared to be a freeman of right, without qualification. Up to this time no property qualification had been required to constitute a freeman. Rhode Island was principally engaged in agriculture, and it is therefore reasonable to suppose that very few were by this law excluded from the polls.

In 1730, this property qualification was raised from £100 to £200, or that the freehold should bear a yearly rent of £10.

In 1742, it was further enacted by the General Assembly, that *no person* should be admitted to vote but those *only* who at the time of voting were freemen and possessed of land as provided in the act of 1730. Did this exclude the eldest son?

In 1746, the requisite qualification was raised to £400 or an annual rent of £20.

In 1762, it was reduced to the possession of a freehold of the value of £40, or one hundred and thirty-four dollars, or a yearly rent of forty shillings, or seven dollars; and that act has been continued to the present day.

While no one could become an elector without first having a freehold of the value of \$134, and proving previous residence of six months in the town where he wished to vote, yet this did not give him a right to claim the privilege of a freeman. He must be chosen a freeman in open town meeting, or he had no right as an elector. The property only placed him in such condition that the freemen of the town *might* grant him the boon of a free citizen, but they were not bound to do it.

In 1796, the Assistants were created a distinct legislative branch, and have so continued to the present day.

In the lapse of time the political representation became very unequal. The representation of the several towns was

fixed by the Charter, and no provision made for a new apportionment.

POPULAR MOVEMENTS, &c.

The Charter, at the time of its adoption, was a good one, and far in advance of the age. It provided for entire religious liberty, fixed no limit to the right of suffrage, and vested the whole governing power in a Governor and General Assembly, chosen annually by the people. The charter, when granted, as adapted to the then population, who were with but few exceptions landholders, might almost have been said to be faultless.

But, when we look at the charter as adapted to the people of Rhode Island in 1840, its character is entirely changed. Instead of being in advance of the age, it is behind it. Instead of being one of the best governments in the colonies, it has become the worst. Instead of being a government of the people, as understood in her sister States, as it really was when granted, it has become a government of a mere fraction of the people.

In 1840, when there was a free white male population in the State of over twenty-five thousand six hundred, but little more than eight thousand six hundred, or less than one third of them, were voters; so that less than one third of the free white adult population of the State, governed the other two thirds.

But while the Charter, by a change of the habits and occupation of the people, has been thus working injustice to the non-freeholders, it has also gradually been equally working injustice among the freeholders.

The Charter, at the time it was granted, in apportioning the representatives, assigned *six* to Newport, *four* each to Providence, Warwick, and Portsmouth, and *two* to each

other town. The charter made no provision for any new apportionment of representatives, and thus it has continued ever since. In the mean time Providence has risen to a city, and other towns, which then had scarcely an existence, and were entitled to but two representatives, have outstripped Newport, and the other then chief towns. The apportionment, when made, was a fair one ; *now* nothing could be more unequal.

The census of 1840 gave a population for the whole State of 108,837 souls. There were cast for electors in November of the same year, 8,622 votes, and at the same time the State was entitled to seventy-two representatives. Of these representatives, *thirty-eight*, or more than a majority, were chosen from towns possessing a population of only 29,036 inhabitants, and which cast the same year only 2,846 electoral votes. The remaining *thirty-four* members were chosen from towns possessing a population of 79,801 inhabitants, and which cast 5,776 electoral votes.

One freeholder in Barrington, under the Charter, had as much weight in the government as *twenty-one* freeholders in Providence, *nine* in Cumberland, or *eighteen* in Smithfield. So *one* freeholder in Newport was equal to *four* in the former or three in the latter place.

It will be seen from the above, that while about 8,600, or not far from one third only of the adult male population, had the right of suffrage, and nominally governed the State, that 2,846, or less than one eighth of that number, chose the majority of the popular branch of the Assembly, and really held the balance of power.

This state of unequal suffrage and representation early enlisted attention.

Near the close of the last century a movement was made to form a new Constitution, but it was ineffectual.

In 1811 a bill to extend suffrage to all citizens who paid

taxes and performed military duty was passed in the Senate, but was lost in the House of Representatives.

In 1819, and the three following years, the subject of a State Constitution was agitated, but without success.

In 1824, a convention of the freemen was called by the General Assembly to form a Constitution. This convention proposed to the freemen a Constitution redressing in part the inequalities of the representation; but a resolution to extend the right of suffrage to others beside landholders, received but *three* votes in the convention. This Constitution, which did not provide for an extension of the right of suffrage, was rejected by a large majority.

In 1829, further efforts were made for an extension of the right of suffrage. Numerous petitions were addressed to the General Assembly, praying for that object. These petitions were referred to a committee, and reported upon. This report is unparalleled in modern legislation. It is a most insulting reply to a respectful petition, strongly intimating that the owners of landed estates are the only sound part of the community, and that the petitioners not only have leave to withdraw their petition from the House, but themselves from the State, if they choose.

In 1832, another attempt to extend the right of suffrage failed.

It now becomes necessary to give an account of more strenuous efforts to equalize the representation and extend the right of suffrage, and which have caused the recent outbreak, which has so much agitated the community.

In 1834, many individuals in the State associated themselves together for the express purpose of obtaining by political action an extension of the right of suffrage. By invitations from the towns of Cumberland and Smithfield, delegates from a number of large towns assembled at Providence to consult upon the best course to be pursued for the

establishment of a written State Constitution, that should properly define and fix the powers of the different departments of government, and the rights of the citizens. This convention assembled at Providence on the 22nd day of February, and again on the 12th day of March, 1834. At the first meeting of the Convention a committee were appointed to prepare an address to the people of the State, and at the second meeting the address was read and adopted. This movement may perhaps be properly named as the date of the formation of the Free Suffrage party.

The General Assembly, soon after, called a convention of freemen for the purpose of framing a new Constitution. This convention dissolved without proposing any thing material. A proposition in the convention to extend the right of suffrage was supported by only seven votes.

From this time until 1840 no movements of much importance connected with this subject were made. In that year a Suffrage Association was formed, with auxiliaries in the several towns in the State, and was composed mostly of mechanics without distinction of party.

Up to the year 1841, every effort to extend the right of suffrage had been unavailing.

At the January session of the General Assembly in 1841, the Association presented a petition for the redress of their grievances. The petition was not acted upon. At the same session a petition from the town of Smithfield for an equalization of representation was presented, and resulted in the call of a convention of the freeholders to form a constitution.

As this convention was called on account of a petition for an equalization of the representation of the State, and not on a petition for an extension of suffrage, nothing was expected by the association favorable to their prayer.

The Suffrage Association proceeded to call a Mass Con-

vention. It was held at Providence on the 17th of April, 1841. Another was called, and held at Newport on the 5th day of May following. At that meeting a State Committee was chosen, and directed to call a convention of delegates, to draft a Constitution at as early a day as possible. An adjourned meeting of this convention was held on the 5th of July at Providence, when the instructions before given to the State Committee were reiterated, and the committee were directed to call a convention of the people on the basis of the resolutions passed at Newport.

The Committee, pursuing the instructions given them by the Mass Conventions held at Newport and Providence, held a meeting at Providence on the 20th of July, and in conformity with a resolution adopted at Newport, which prescribes the call of a Convention of the people at large, to be represented in proportion to population, passed unanimously the following resolutions:

Voted, That we proceed to issue a call for the election of Delegates to take place on the last Saturday in August, (the 28th day,) to attend a convention to be holden at the State House in Providence on the first Monday in October, (the 4th day,) for framing a Constitution to be laid before the people for their adoption.

Voted, That every American male citizen, twenty-one years of age and upwards, who has resided in this State one year preceding the election of delegates, shall vote for Delegates to the Convention called by the State Committee, to be held at the State House in Providence, on the first Monday in October next.

Voted, That every meeting holden for the election of Delegates to the State Convention shall be organized by the election of a Chairman and Secretary, whose certificate shall be the authority required of the Delegates.

Voted, That each town of one thousand inhabitants, or

less, shall be entitled to one Delegate, and, for every additional thousand, one Delegate shall be appointed, and the City of Providence shall elect three Delegates from each ward in the city.

Voted, That the Chairman and Secretary be directed to cause one thousand hand-bills to be printed and distributed through the State, containing the call for a Convention of Delegates.

Voted, That the proceedings of this meeting be signed by the Chairman and Secretary, and published.

On motion, *Voted*, That this meeting stand adjourned to meet at this place on the first day of September, at 11 o'clock, A. M.

At the January session of the General Assembly, in 1841, a resolution had been passed, authorizing the freemen to elect Delegates to a State Convention to be held on the first Monday in November, to frame a Constitution for the State. In the choice of Delegates to this Convention none but those already freemen had a voice.

At the June session of the General Assembly, in 1841, a motion was submitted, providing for a new apportionment of representation and an extension of the right of suffrage to all white male citizens, twenty-one or more years of age, who paid a tax on real or personal property, in choosing Delegates to frame a Constitution. This proposition received but ten votes.

The General Assembly called a Convention of Delegates to frame a Constitution, to be held on the first Monday in November, which was one month later than the Convention called for the same purpose by the committee appointed by the mass meeting.

The Delegates to the People's, or Suffrage Convention, to be held on the first Monday in October, were duly chosen by the several towns. The meetings for the choice were

organized in the same manner as town meetings usually have been in Rhode Island, by the election of a Moderator and other officers. The Convention met at Providence at the time and place appointed, was duly organized, and drafted a Constitution. The Convention then adjourned to the third Tuesday in November, and in the mean time the draft of the Constitution was printed and circulated among the people.

On the first Monday in November the Convention of Delegates chosen by the freeholders, met and proceeded to draft a Constitution. On the question of the extension of the right of suffrage, the Convention *Voted*, to exclude the eldest son of freemen, and to admit such white male adult citizens as possessed taxable property to the amount of *five hundred dollars*. The Convention then adjourned to meet again on the fifteenth day of the following February.

The Suffrage Convention met on the 16th day of November according to adjournment, and on the 18th of the same month *ADOPTED* a Constitution to be submitted to the people for their approval on the 27th day of December and the five following days.

THE PEOPLE'S CONSTITUTION.

The Constitution, thus framed by this Convention, and afterwards submitted to the people, after setting forth the usual bill of rights, provides for a distribution of the powers of government into three departments — the Legislative, the Executive, and Judicial.

The *Executive* consists of a Governor and Lieutenant Governor, to be chosen annually. The Governor is to have the appointing of such civil officers as the choice of is not otherwise proved for; he is to be Commander-in-Chief of the militia; to have the pardoning power, and the power

under certain restrictions of convening and proroguing the General Assembly ; and also to have a negative upon the acts of the Legislature.

The *Legislative* power is vested in two distinct Houses, the one called the Senate and the other the House of Representatives, and both called the General Assembly.

The concurrent vote of the two Houses, and the assent of the Governor, is required to pass a law : but the subsequent passage of any bill by a majority of both Houses, that has been vetoed, is to give it the authority of law.

There are to be, in each year, two sessions of the General Assembly, alternately, at Newport and Providence.

The Representatives are to be chosen according to a certain apportionment, allowing to Newport 5, Warwick 4, Smithfield 5, Cumberland, North Providence and Scituate 3, Portsmouth, Westerly, New Shoreham, North Kingstown, South Kingstown, East Greenwich, Gloucester, West Greenwich, Coventry, Exeter, Bristol, Tiverton, Little Compton, Warren, Richmond, Cranston, Charlestown, Hopkinton, Johnston, Foster, Burrillville, Jamestown, Middletown and Barrington, one each, and all the other towns in the State, two each.

The State is to be divided into twelve senatorial districts, and each is entitled to one senator.

The first, second, and third Representative districts in Providence to constitute the first senatorial district ; the fourth, fifth and sixth, the second district ; the town of Smithfield the third ; the towns of Cumberland and North Providence, the fourth ; Scituate, Gloucester, Burrillville, the fifth ; Warwick and Cranston, the sixth ; East and West Greenwich, Coventry, and Foster, the seventh ; Newport, Jamestown and New Shoreham, the eighth ; Portsmouth, Middletown, Tiverton, and Little Compton, the ninth ; North Kingstown and South Kingstown, the tenth ; Westerly, Charles-

town, Exeter, Richmond and Hopkinton, the eleventh ; and Bristol, Warren and Barrington, the twelfth.

The Lieutenant Governor is President of the Senate.

The power of impeachment is granted to the House, and to the Senate to try the same.

The right of suffrage is extended to all white male citizens of the age of twenty-one years and upwards, who have resided in the State one year, and in the town six months previous to the election, except paupers, lunatics, &c., with the restriction that none but freeholders or other qualified voters, who are taxed for property to the amount of \$150, shall vote in town-meeting upon the assessment of taxes or upon the expenditure of the same.

A strict registration of votes, throughout the State, is provided for.

The Judicial power is vested in a Supreme Court and such other inferior courts as the Legislature may establish.

The Judges of the Supreme Court are to be chosen by the two Houses in joint committee, and shall hold their offices until removed by the vote of the two Houses in concurrence.

The Justices of the inferior courts are to be elected in joint committee of the two Houses annually.

Justices of the Peace are to be elected annually by the electors of the several towns, and the Sheriff by those of the several counties.

The Constitution, of which the foregoing summary contains the leading and important provisions, was submitted to the people for their approval at the time appointed, as before stated. The polls were opened on those days in every town in the State. All challenges of votes were received and entertained. The moderators were not under oath. The name of each voter was strictly required to be endorsed

on his vote, as provided in the Constitution. Those who voted by proxy had their signatures witnessed by one who had previously voted. In addition to this, the name of every man who voted was registered, and a copy of the register was duly certified with the votes. All the votes in their respective envelopes were reserved for future reference.

These votes were duly returned to the people's convention, and were examined and counted by a large committee of that body.

The committee reported, "that as nearly as could be ascertained, the number of males in the State over the age of twenty-one years, who could be voters under the people's constitution, was 23,142; that 11,572 were a majority of that number, and that the people's constitution was approved by 13,944, being a plurality of 4,756, and a majority of 2,372 votes." The constitution, therefore, was by the Convention declared to be adopted.

The report of the Counting Committee was transmitted to the General Assembly at the January session, 1842, and a motion was made in that body for a committee to examine the return, which was negatived by a large majority.

The history of this controversy is now brought down to the adoption by the people of the Suffrage party's constitution on the first day of January, 1842.

The question of the right of the people to frame and adopt a constitution in such manner, and also the very important fact whether it was really adopted by a majority of those persons in whom this constitution invested the right of suffrage, will be considered hereafter. It is purposed here to give only a plain record of the facts, or what appear to be the facts, in the order of time in which they occurred. The various arguments used by the two parties are left for the conclusion.

Immediately after the people had adopted the Suffrage

Constitution, the General Assembly convened and held its January session, at which a bill was introduced to extend the right of suffrage, but was not carried.

The convention of Landholders assembled again on the 14th of February, and adopted a constitution, the pertinent parts of which will be found to be embraced in the following synopsis.

THE LANDHOLDERS' CONSTITUTION

Provided for a distribution of the powers of government into three branches, the Legislative, the Judicial, and the Executive.

The former Statute regulating the right of suffrage, and granting the electoral franchise to freeholders possessing a landed estate valued at \$134, was embodied in this constitution. The franchise was further enlarged by providing that all white native American citizens (twenty-one years of age) who had resided in the State two years, and in the town six months, (excepting paupers, &c.,) should be entitled to vote in the choice of State and National officers.

None but freeholders, and other qualified voters who paid a tax on property of the value of \$150, could vote in the assessment of taxes, or the expenditure of the same.

It provided, that naturalized citizens, to obtain the right of suffrage, should possess the freehold qualification, and also have resided in the State three years after naturalization, and in the town or city where they claimed to vote, the previous six months.

It also provided for the registration of voters, for the exemption of electors from arrest on election days, and granted to the General Assembly the power to admit to the right of suffrage *other* native citizens of the United States, not before provided for. This latter provision is supposed to refer to

the extension of the right of suffrage to the colored population, should public sentiment demand it.

The legislative powers of the Government were to be vested in a Senate and House of Representatives. Each to have a negative upon the other. Both were to be called the General Assembly, and to have two sessions, one in May, the other in October. The House of Representatives was to consist of members chosen by the several towns, as follows: each town having 4,000, and less than 6,500 inhabitants, three representatives; each town having 6,500, and less than 10,000 inhabitants, four representatives; and every 4,000 above the latter number to be entitled to one representative; no town, however, to have more than eight.

The Senate was to consist of nineteen members, to be chosen annually, by districts. The State was to be divided into sixteen Senatorial districts, and apportioned in the following manner: Newport, two; Portsmouth, Middletown, Tiverton, Little Compton, New Shoreham, and Jamestown, two; Providence, two; Smithfield, one; Cumberland and North Providence, one; Scituate, Cranston, and Johnston, one; South Kingstown, one; Westerly and Charlestown, one; Hopkinton and Richmond, one; North Kingstown and Exeter, one; Bristol, one; Warren and Barrington, one; East and West Greenwich, one; Coventry, one; Warwick, one.

The chief Executive power was to be vested in a Governor, chosen annually by the people. He was to be commander in chief of the military forces; to have the power to grant reprieves to the end of the next session of the General Assembly; was to preside in the Senate, and was entitled to vote there in case of equal division, and not otherwise. He could fill vacancies in office which might happen during the recess of the General Assembly, and convene and adjourn the two Houses in certain cases. He could have no negative upon the acts of the other branches.

It provided for the election, by the people, of a Secretary of State, Attorney-General, and General Treasurer, and also Justices of the Peace. The other officers were to be chosen in grand committee of the two Houses, as provided by the Charter of 1663.

The Judicial power was to be vested in a Supreme Court, and such inferior courts, as the Assembly might establish. The Justices of the Supreme Court were to hold their offices until declared vacant by a resolution of the two Houses. The tenor of office, and the manner of appointment of the justices of the inferior courts, do not seem to be provided for.

The General Assembly were to be empowered to propose amendments to the Constitution, which amendments were to be read at the several town meetings. If the next General Assembly concurred in proposing the same amendments, they were then to be submitted to the people, and if approved by them, to be a part of the Constitution.

This Constitution was submitted to the people on the 21st, 22d and 23d days of March, and rejected. The votes being 8,013 for, and 8,689 against it.

The General Assembly met again in March, after the rejection of the Constitution submitted by them to the people. At this session a bill was brought forward to extend the right of suffrage for general and state officers, as provided in the *People's Constitution*, and another to submit the question to those who were qualified to vote under the *People's Constitution*. Both were promptly rejected. At this session the General Assembly declared all elections, except such as are authorized by the Charter Government, illegal and void, and every officer of such meeting guilty of a misdemeanor, and liable to punishment by fine not exceeding \$1,000, nor less than \$500, and imprisonment for six months.

That every person who knowingly suffered his name to be used as a candidate for any office under the People's Constitution, should pay a fine of \$1,000, or be imprisoned for one year.

That every person who should attempt to exercise any authority under the People's Constitution, would be guilty of high treason, and should be punished by imprisonment for life.

At the April term of the General Assembly, a proposition was submitted for another Convention of delegates to be chosen by a constituency not much extended beyond the present freemen. This also was voted down.

On the 18th day of April, the time appointed by the Constitution, the people cast their ballots, in the manner prescribed, and elected Thomas W. Dorr, of Providence, Governor; Amasa Eddy, of Gloucester, Lieutenant-Governor; William H. Smith, of Providence, Secretary of State; Jonah Titus, of Scituate, Attorney General; Joseph Joslin, of Newport, Treasurer; and the members of the General Assembly. The popular vote was very small, (being 6,417,) many having stayed from the polls on account of the Act of the Charter Assembly, commonly called the "Algerine Act," which threatened imprisonment and a heavy fine for any attempt to carry out the provisions of the new Constitution. On the same account it was with some difficulty that candidates could be obtained who would consent to stand.

On the first Tuesday of May, the new government met at Providence, and were escorted by a procession of about four thousand people to a building in Eddy-street, where they duly organized. A guard had been placed at the State House by the Charter Authorities, and it was deemed expedient to allow them to retain possession without molestation.

The Assembly organized by the election of Welcome B. Sayles, Esq., as Speaker of the House of Representatives, who took the usual oath and administered it to the other members. John S. Harris and Levi Salisbury were elected Clerks of the House.

The votes for Governor were counted, and Thomas W. Dorr was pronounced elected ; and he then took the oath of office, and delivered his inaugural address in person. He went into a full discussion of the question at issue between the parties, and reasoned with great calmness, clearness and force.

The General Assembly, during its session, passed resolves that "his Excellency, the Governor, be authorized to take such measures as he shall deem necessary to protect and preserve the public property of the State;" that "he be authorized to recall any arms or cannon that have been loaned by the General Assembly to any of the Independent Chartered Companies of the State;" "that Perez Simmons and Nathaniel Mowry be a committee to demand and receive the records, books and papers appertaining to the office of Secretary of State, from Henry Bowen, late Secretary of State, and transfer the same to his successor, William H. Smith;" and that "the Governor be authorized to appoint suitable persons, Commissioners on behalf of this State, to proceed to Washington to make known to the President of the United States that the people of this State have adopted a written Constitution and elected officers and peaceably organized the government under that Constitution, and that said Government is now in full operation." The Assembly also repealed the Algerine law.

At the session of the Charter Assembly held early in May, a resolution was introduced to extend the right of suffrage, which was not acted upon.

The State was now in some sense like the old feudal

countries. It had *imperium in imperio* — a government within a government. Two distinct sets of officers claimed the supreme authority, and, so far as they were able, attempted to exercise it. The one had the majority *in* the State, and the popular sympathy *out* of it; the other had the arms and ammunition, the records, the public seals, the purse, and what was above all, the countenance, as will appear, of the General Government.

In reply to a communication from Gov. King, written in the early part of the year, President Tyler says: "It will be my duty to respect the requisitions of that Government which has been recognized as the existing government of the State in all time past, until I shall be advised in a regular manner that it has been altered and abolished."

In consequence of this letter, and by authority of the People's Assembly, Gov. Dorr appointed two Commissioners and accompanied them to Washington, where they laid before the President a statement of facts.

Gov. King also sent a communication to the President, stating that there existed in Rhode Island "certain lawless assemblages of a portion of the people for the purpose of subverting the laws and overthrowing the existing government," and demanding of the national Executive "forthwith to interpose the power and authority of the United States to suppress such insurrectionary and lawless assemblages, and to support the existing government and laws, and protect the State from domestic violence." To this Mr. Tyler replied, under date of May 7th, that from information he had received, he was led to believe that "the lawless assemblages to which reference is made have already dispersed, and that the danger of domestic violence is hourly diminishing, if it has not wholly disappeared; but," he proceeds to say, "I have to assure your Excellency, that if resistance is made to the execution of the laws of Rhode

Island, by such force as the civil posse shall be unable to overcome, it will be the duty of this Government to enforce the constitutional guaranty." "And if an exigency of lawless violence shall actually arise, the Executive Government of the United States will stand ready to succor the authorities of the State in their efforts to maintain a due respect for the laws."

The answer to Gov. Dorr may be readily inferred. The people had nothing to hope from that quarter.

In the month of March, Chief Justice Durfee delivered a charge to the Grand Jury, upon the subject of the movements of the Free Suffrage party, committing himself fully to the Charter party, although those arrested under that charge would be tried, and the constitutional question raised before him. This, in connection with the proclamations and energy of Gov. King, caused the arrest, during the absence of Gov. Dorr, of a large number of those who had participated in the new government. Among them were Benjamin Arnold, Jr., member of the General Assembly, Welcome B. Sayles, Speaker of the House, Joseph Joslin, and Hezekiah Willard.

That these arrests were not merely nominal will appear from the fact, that Mr. Arnold, one of the most respectable citizens of Providence, was confined in a cell used for condemned felons, being about six feet by eight, and cold, damp and dark, and having the usual iron doors and bars, stone walls and vermin; the latter of which always having possession of such places by an indefeasible right of inheritance.

On the 15th day of May, Gov. Dorr arrived at Providence, and was received by a very large assemblage of the people and the military, and was escorted to the residence of Burrington Anthony, Esq. He had previously issued a Proclamation stating that so soon as a soldier of the United

States shall be set in motion by whatever direction, to act against the people of the State in aid of the Charter government, he should call for that aid, to oppose all such force, as he was fully "authorized to say would be immediately and most cheerfully tendered;" and that "no further arrests under the law of pains and penalties would be permitted."

The Governor, upon the dismissal of his escort, ordered the military to hold themselves in readiness for instant service, and directed his officers to attend him at Mr. Anthony's, his head-quarters. Cannon were planted so as to protect the house from any invading force.

On Tuesday evening a force of from eight hundred to one thousand, under command of Gov. Dorr, proceeded to the arsenal to demand possession, which was refused. The Governor then ordered his artillery to fire, but it was found upon application of the match that the powder, by the thoughtfulness or treachery of some of his friends, had been wet. The troops therefore returned to head-quarters.

On the next morning, six companies marched, under command of Col. Blodget, to Gov. Dorr's head-quarters. While they were on the way, the Governor, by the advice of his friends, and their assurances that arrangements were in progress that would, in their opinion, terminate favorably, and having also the strongest ocular evidence that the people were not ready or willing to sustain him in his military movements, left the State. A small remnant were dissatisfied, and encamped on the hill; but in the course of the ensuing day, after seeing the impossibility of successful defence, withdrew.

Gov. King shortly after issued a Proclamation, offering a reward of a thousand dollars for the capture and delivery of Gov. Dorr to the Charter authorities. The reward has not yet been claimed.

CONCLUSION.

WE have thus presented all the facts necessary to a right understanding of the controversy, and we now ask the candid attention of the public to a few thoughts, growing out of these facts.

It appears that there are some seventeen thousand white male adults in the State who have no voice in the administration of the Government. This body constitutes a majority of the people. They are taxed and compelled to perform military duty, yet have no more power than the Russian serfs. They *are* serfs; and while the Autocrat is adopting measures for raising the slaves of his empire to a level with humanity, the Charter autocrats are tightening the chains and refusing to "let the oppressed go free." *Their* RIGHT to a written Constitution, embracing *free suffrage and equal representation*, will not, we apprehend, be questioned by the people of any other State in the Union; for such questioning would repudiate the principles and efforts of our forefathers, and cover their sons with infamy. Many of the land-holders themselves admit this. Indeed what could be a stronger acknowledgment than the actual granting of this right in the Constitution proposed by them for the adoption of the people? Time does not sanctify injustice; and though Oppression be hoary-headed, its age gives it no "divine right." "All men are *born* free and equal;" so says the Declaration of Independence, and so says intuition. Thomas Jefferson when he wrote that sentiment gave birth to no new idea. He but took the *thought*, which finds a home in every man's heart, and gave it *words*. The poorest come into the world with their limbs as free as those of the wealthiest. They are born neither with crowns on their heads or manacles on their bodies; and if adventitious cir-

cumstances degrade them below the intention of their Maker, they have the right to seek immediate restoration to their natural position. The colonies at the period of the Revolution acted upon this principle. His Majesty, King George, disregarded their petitions for redress, under the laws of England; and they threw off King George and the laws of England together.

But if the people of Rhode Island are entitled to the rights for which we contend, *how long ought they to wait for them?* For ever? They have, as the facts we have presented abundantly show, petitioned for almost half a century. One entire generation has gone into the grave, and how much better situated are the people? They have been, year after year, seduced into quiet by delusive promises, thrown out to them like the tub to the whale; and every promise has terminated in some fresh and more cruel infraction of their rights. "A whole generation," says Gov. Dorr in his inaugural, "has thus passed away, in fruitless efforts to obtain as a grant from the chartered authorities, those rights which are every where else, throughout the length and breadth of this great Republic, regarded as the birthright of the people. The legislature had been repeatedly approached in terms of respectful petition, and the applicants had been driven away as intruders upon the vested rights of the ruling political class." The General Assembly has always had the *power* to grant free suffrage, and to some degree equal representation, under the Charter, but have always refused to exercise it. They were determined that the *soil* rather than the *soul* should be "the test of merit." They have denied and spurned the truth of the idea so beautifully expressed by the poet:

"Men, high-minded men;
Men, who their *duties* know,
But know their *RIGHTS*, and knowing, dare maintain,
Prevent the long-aimed blow,
And crush the tyrant while they rend the chain;
THESE constitute a State."

And we would here, *en passant*, commend this quotation to the especial thought of one of the Justices of the U. S. Court in Rhode Island who cited it, with the remark that "wealth does not constitute a State," in an eloquent Centennial Address, delivered in 1836, but who is now by his judicial authority consigning to fetters those who deny the supremacy of the money-box over men and mind.

We repeat the question, emphatically, how long the *wronged* are bound to wait before they are *righted*? And whether the lapse of sixty years of vassalage, with no vision of light breaking from the dark cloud that hangs like a pall over the future, is not sufficient to render patience no longer a virtue? The people of Rhode Island should have their just rights now;—they should have had them in 1776, when the soil had not yet dried up the baptismal offering of the freemen's blood.

If, then, the people of Rhode Island have the *right* to a written Constitution, and have the right *now*, have they adopted the proper *means* to obtain their object? They called a Convention, and the Constitution proposed by that body received the sanction of a large majority of the white adult male citizens, over twenty-one years of age. Not even the Charter party dispute this. Now there is one fact here worthy of remembrance, and that is, that if the people, in their primary capacity, have not the power to form a Constitution, then there is no power in the State that has. The General Assembly have no such authority. Where is the passage in the Charter, *under which they act*, that permits them to adopt a new constitution, or propose one to the people? The utmost they can do is to *request* the people to hold a convention, and adopt a Constitution. This is very far from having the sanction of *law*; and this is all they ever have done, or dared to do, when the Landholders' Conventions have been called. Now, if the people have the right,

by *request*, to form a Constitution, have they not a right without a *request*? Is it not a virtual acknowledgment, that all power centres, *de facto*, in the people? An able address before us, places the matter in the following strong light:

“The opponents of the People’s Constitution are in this difficulty. They say, that the people have no right of themselves to make a Constitution; that the General Assembly have no right to make a Constitution; and that the freeholders and freemen have no right to make a Constitution, *unless* called and authorized thereto by the General Assembly, which has no power! The people have rightfully determined that the power is in them, and have exercised it.” If it be not in them, it exists nowhere.

The argument, that no convention of the people can be valid, unless called by the existing authorities, is absurd. Carry out the idea, and let us see where it will bring us. The Constitution of the United States was the voluntary, unauthorized act of the States, and was not made by virtue of any call or power from the then existing General Government; therefore it was, *is*, and ever must be, *invalid*. In fact, *all* the movements made in this country, from the incipient step down to the adoption of that great document, were without authority from the existing government. At any rate, we never heard that George III. called the conventions under which the people acted; but have a strong impression that he opposed them much in the style of the Charter party, and argued that it was rank rebellion, “*unless called by the existing authorities.*” Those who use the argument cannot dodge the conclusion, however unwelcome it may be. Rhode Island herself, in a convention called by the people in their sovereignty, and against the will of “the existing authority,” cut asunder her allegiance to England. The doctrine of the supremacy of the “existing authority” over the clearly-expressed voice of the majority, is one

of the first political maxims in the text-book of European despotism, but it sounds strangely in the ear of republicanism. Napoleon taught it, when at his climax, with his foot on the necks of the people ; so did Robespierre, while the guillotine was at its bloody work ; so did Charles the Tenth, when he muzzled the press ; and so did Nicholas, when his cannon thundered at the gates of Warsaw. But we trust this union has not yet become so servile as to tolerate it, even though it be urged by the "existing authorities" of Rhode Island.

We maintain, that the only supreme power is the people ; and that this power towers above all charters, constitutions, or antiquated parchments, whether they be signed by the crowned or the uncrowned. The people have the full right, at any time, and at all times, in their primary capacity, to "alter, amend, or abolish" the forms of government under which they live. The Declaration of Independence, which we suppose not even the Charter party are yet prepared to pronounce a "mere rhetorical flourish," says that governments derive "their just powers from the consent of the *governed*" Mark ! not from a privileged class, not from the landholders, not from the wealthy minority, but from the *governed*.

At the Rhode Island Convention of freemen in 1790, a Declaration of Rights was adopted, which says, "That there are certain *natural* rights, of which men, when they form a social compact, *cannot* deprive or divest their posterity ; among which are the enjoyment of life and LIBERTY ;" and it goes on to say that "ALL power is *naturally* vested in, and consequently *derived from the people*" and that "the power of government may be *reassumed by the people* whensoever it shall become necessary to their happiness."

This Declaration has been buried for fifty years in the archives of the State. We advise the Charter Party to take

it from its sepulchre, brush away the cobwebs that have gathered over it, breathe into it once more the breath of life, and give it again to the people.

WASHINGTON, in his Farewell Address, says that "the basis of our political systems is the right of the *people* to *make* and *alter* their constitutions of government."

MADISON, in advocating the adoption of the Constitution says, that "it is essential that it be derived from the great body of the society, not from an inconsiderable portion or a *favoured class*."

HAMILTON, whom no one will charge with ultra republicanism, says that "the fabric of American Empire ought to rest on the solid basis of *the consent of the people*. The streams of national power ought to flow *immediately* from that pure original fountain of *all* legitimate authority." *Fed. No. 22*.

Justice WILSON says, "Of the right of a *majority* of the whole people to change their government, AT WILL, there is no doubt." The same Justice, in his eloquent Lectures on Law, (Vol. I. p. 17,) says "that the supreme or sovereign power of the society resides *in the citizens at large*; and that, therefore, they always *retain* the right of abolishing, altering or amending their Constitution, at whatever time and in WHATEVER MANNER they shall deem expedient."

JUSTICE PATTERSON, of the Supreme Court of the United States, says that "a Constitution is the form of government delineated by the mighty hand of the people;" that it is "paramount to the will of the legislature," and is liable "to be revoked or altered by those who made it."

JUSTICE IREDELL, of the Supreme Court of the United States, speaking of the power of the people says: "Those in power are their servants and agents. And the people, *without* their consent, may *remodel* the government, whenever they think proper, not merely because it is oppressively

exercised, *but because they think another form is more conducive to their welfare.*" This is the precise situation of Rhode Island. The people, without the consent of those in power, remodelled the government, "because they thought another form more conducive to their welfare."

MARSHALL, that great and sound Jurist, who "though dead yet speaketh," in giving an opinion of the Supreme Court says: "That the people have an *original* right to establish for their future government, such principles as, in *their* opinion, shall most conduce to *their own* happiness, is the basis on which the whole American fabric has been erected."

JUSTICE STORY, whose authority we apprehend none will dispute, says in his Commentaries on the Constitution:

"The Declaration puts the doctrine on the *true* ground — that governments derive their powers from the *consent* of the governed. (Vol. I. p. 300.) The same Justice says, that the Constitution of the State "is unalterable, unless by the consent of a *majority of the people*, or at least by the qualified voters of the State, in the manner prescribed by the Constitution, or *otherwise provided by the majority.*" (Vol. I. p. 305.)

We might offer a multitude of other authorities upon this point, but these must suffice. JEFFERSON, JAY, RAWLE, and a host of others utter the same sentiments.

Congress has directly settled this question, if question it can be called, by its action relative to Michigan, in 1836. The people held, by their own power, and without any law to that effect, a Convention, and accepted a fundamental condition of their admission into the Union. This was pronounced, by its opponents, a tumultuary assemblage, a riotous, unlawful mob; and it was gravely urged that a law should be passed making such unauthorized Conventions penal. But Congress took a different view of the matter.

They admitted the right of the people so to assemble, pronounced the Convention valid, and Michigan became one of the States of the Union.*

The only question that remains is, whether the proceedings of the Free Suffrage Convention were equitable, and whether an indisputable majority of the citizens voted for the Constitution. Let us look at the facts.

There were three immense mass meetings held at different parts of the State. At the second one, a large Committee was appointed to call a Convention. In that call the Committee apportioned the State fairly, and each was represented according to its population. To prove this, we refer to the facts already stated. The Convention adopted a Constitution, and submitted it to the white male adult citizens, who had resided in the State one year, and in the town where they were to vote six months. Moderators and Clerks were properly elected. The Moderators were not sworn, because it was not ordered by the Convention, and because it has never been the custom in the State. All the votes were carefully preserved in envelopes, and certified to by the proper officers. Each vote had the voter's name attached. There were some proxy votes, but these were comparatively few, and would not, if thrown out of the estimate, change the result materially.

At the next Convention the Committee appointed to count the votes reported that, as nearly as could be ascertained, the number of white male adult citizens in the State,

* This is the precise situation of the people of Rhode Island, with the exception that the Michigan Convention was called with less regard to legal forms, and the returns made with less accuracy and certainty. And here we would suggest that one mode of settling this question beyond dispute is, at the next election, to send Representatives to Congress, under the new Constitution. The Charter party will do the same. And Congress will decide which are entitled to seats.

excepting paupers, those under guardianship, convicts, &c., was 23,142, of whom a majority is 11,572, and that the People's Constitution received 13,944 votes, being a plurality of 4,747. But even if all this was illegal, the Constitution was adopted *by the landholders themselves*. The following figures show this. At the time of the Presidential election, in 1840, the entire strength of the freemen was brought out; for, since the Revolution, no effort at all comparable with that fierce contest was ever made by any party. On that occasion there were 8,622 votes thrown. Now, the returns show that the number of votes cast for the People's Constitution by the landholders, was 4,927, being a majority of 616, taking the vote of 1840 as the basis. Thus it appears that the People's Constitution not only received the popular vote, but the vote of the majority of the freemen themselves. But if the returns were inaccurate, the Convention took no pains to conceal that inaccuracy. On the contrary, the Counting Committee, by their orders, transmitted the report to the General Assembly at the January Session in 1842, and a motion was made to inquire into the returns, but was negatived by a large majority. They had the full opportunity to show that the Constitution was *not* adopted by the majority, and thus put the matter at rest. But they well knew that those returns *were* accurate, and they wisely refused to sharpen the axe provided for their own necks.

It is said that the Constitution proposed by the landholders, subsequent to the passage of the People's Constitution, embraced the points at issue, and that, had the people adopted it, they would have obtained all they asked; and that their rejection of it manifests their insincerity. We by no means regard it in that light. A Constitution had already been adopted, legally, and by a large majority. Why should they adopt another? They considered the

present one valid, and the law of the land, and did not deem it necessary to abolish it in four weeks, at the request of the minority.

But the landholder's Constitution did *not* grant all they asked. The people saw the hook through the bait.

It did not give a jury trial to citizens who might be claimed to be removed from the State to be held to labor.

It did not protect witnesses from religious tests.

It did not destroy the freehold qualification or the peculiar privilege of the eldest son.

It did not confer free suffrage, but allowed freeholders to vote in the State after a residence of one year, and non-freeholders after a residence of two years.

It did not place naturalized citizens on a level with the soil-born, but required of them three years' residence, in addition to the five required by the laws of the United States, and that they should own real estate in the town where they might vote.

It did not provide for the vote by ballot, but referred the subject to the General Assembly.

It did not limit the Jurisdiction of the General Assembly in Judicial matters, but gave them the unlimited power that they possessed under the Charter.

It did not exempt from a poll tax those who actually perform military service, or duty in the fire department.

It did not provide that Acts of Incorporation should be amendable or repealable.

It did not give the veto or pardoning power to the Executive.

It did not, in case of failure in the election of Governor and Lieutenant-Governor, refer the election to the people, but to the Grand Committee.

It did not provide that "no member of the General Assembly shall be eligible to any civil office, under the

authority of the State, during the time for which he shall have been elected."

But while the above omissions and provisions presented grounds of serious objection, the apportionment of representation, both in the House and Senate, was so glaringly unequal and anti-republican, as to condemn it at once. The Free Suffrage party, by consenting to it, would have abandoned in fact all they were contending for. They demanded that their right to free suffrage should be conceded, and the landholders' Convention sought to concede the principle but to hold on to the power. They sought to treat them as children, and to throw them free suffrage as a toy to play with, but the substantial benefits of the franchise they were determined to withhold. After all, it was to be the land that was to govern and not man. The Free Suffrage party were solemnly bound to reject that constitution, and they would have been false to themselves and to their principles had they done otherwise. We appeal to the facts. Rhode Island contained a population at the last census of 108,837 souls, and 25,674 of those were free white adult citizens. This constitution provided for a Senate consisting of nineteen members apportioned arbitrarily among the several towns, with hardly the semblance of a regard to population. For instance, Smithfield, with a population of 9,534, was to have *one* Senator, while Newport, with only 8,333 inhabitants, was to have *two*; and so on, in all cases giving a decided preponderance to the agricultural towns. By this apportionment, ten, or a majority of those Senators were to be chosen by 35,593, or less than one-third of the population, and the remaining population, viz. 73,244, were to elect only nine. But its present was nothing in comparison with its prospective inequality. The latter portion of the population were embraced in the most growing towns, and ere long the representation in the Senate would have become as

objectionable as under the Charter. No provision was made for a new apportionment of Senators for all coming time, and this landed majority in the Senate could always prevent the passage of any act of amendment to the constitution. While, therefore, the Senate had, as provided, a concurrent vote with the House, it would always have the power to defeat the will of the people, and thus render their free suffrage a mere nullity. The apportionment of Representatives was still worse, less than one third of the people choosing a decided majority of the nominally popular branch.

The Suffrage Party were not struggling for an abstract principle, but a valuable right, which they could use and enjoy; and therefore they rallied against the unsubstantial concession of their opponents and happily defeated it. Had this constitution been fixed upon them, they would have been more free in name but scarcely more so in fact than when wholly disfranchised; and what would have been worse, their fate would have been sealed. No amendments, loosening the bonds, would they or their children have seen, without passing through just such a scene as the present. They were right in adhering to the proverb, that "Whatever is worth doing at all is worth doing well," and refusing to accept of the shadow for the substance.

The preceding data and the arguments deduced from them, lead us to the irresistible conclusion, that the Government now in operation under the People's Constitution, is the only legal authority of the State of Rhode Island, and should, by all good citizens, be obeyed as such. Those who do not, may very properly be regarded as disturbers of the public peace, and enemies to law and order. The fact that the minority have the temporary ascendancy will never legalize what is, in itself, wrong.

Of the measures taken by Gov. Dorr to maintain the supremacy of the people, and preserve their Constitution

inviolable, we have nothing to say. How far it may be expedient for him to proceed, every man must judge for himself. It may not be improper, however, for us to remind the reader that when he took the solemn oath of office, he pledged himself by that oath, "So help him God," to sustain the important rights committed to his trust, and to see the laws faithfully executed, and that for this purpose he was appointed the Commander-in-Chief. But we apprehend no disastrous results from the military operations of either party. In this country, public opinion is the stern and just arbiter in the seat of justice. Who can resist its decision? They might as well attempt to stay the avalanche as it thunders down the mountain side, or hold back the swelling waters of the Atlantic. How long, think you, the minority of Rhode Island can breast the storm of popular indignation and contempt that is gathering around them, like the four winds of heaven lashed into wrath, from fifteen millions of people? The great principle over which they are riding rough shod, all "booted and spurred," was purchased by a seven year's war, by immense treasure, and by the blood and lives of thousands of the best and noblest the world ever saw. That principle is the basis of all free government, and the people of the Union will see it sacredly preserved. Let those beware who, to gratify ambition or self-will, shall rudely trample it down; and let them remember, too, that the PEOPLE MUST ULTIMATELY TRIUMPH. The fire of freedom, though it may be lost to human vision, will still burn undyingly. It may smoulder in the ashes of oppression, but cannot be extinguished. The PAST, with its fearful memories, belongs to tyranny, "baptized legitimate by the grace of God;" but the FUTURE, with its full harvest of blessings, belongs to the PEOPLE.

COMPARATIVE TABULAR STATEMENT OF
VOTES.

	Freemen for People's Con. December, 1841.	Freemen against Legal Con. Mar. 1842.	Votes of Freemen for Carpenter, Pros., April, '42.	Votes of Free- men for the R. L. April, 1842.	Votes for Peo- ple's Con. De- cember, 1841.	For Dort, under People's Con. on Free Ticket, April, 1842.
Providence,	1058	319	396	863	3553	2154
N. Providence,	220	105	78	111	708	402
Smithfield,	382	249	266	204	1338	664
Cumberland,	293	185	189	147	892	504
Scituate,	208	121	116	196	524	220
Cranston,	159	110	98	119	400	250
Johnston,	139	86	94	110	347	215
Gloucester,	138	212	120	62	401	250*
Foster,	125	70	60	186	238	50
Burrillville,	237	167	96	71	280	150*
Newport,	317	102	122	380	1207	327
Portsmouth,	67	63	29	109	127	89
Middletown,	*12	2	3	78	25	00
Tiverton,	100	44	20	175	274	115
Little Compton,	18	4	20	91	43	†
New Shoreham,	117	27	00	80	124	†
Jamestown,	30	9	8	36	66	00
S. Kingstown,	135	91	55	224	275	89
Westerly,	107	76	65	106	251	37
N. Kingstown,	81	110	90	135	251	146
Exeter,	53	11	7	119	134	00
Charlestown,	*50	24	29	55	100	†
Hopkinton,	80	89	87	101	160	†
Richmond,	45	*40	45	70	132	†
Warwick,	308	168	107	207	895	417
Coventry,	156	130	90	197	008	21
E. Greenwich,	52	37	33	112	137	69
W. Greenwich,	9	17	4	114	48	17
Bristol,	160	65	46	225	366	140
Warren,	103	34	19	184	210	42
Barrington,	28	17	00	45	53	40

4927 2684 2392 4916 13966 6417

* No return—Number estimated.

† No meetings.

† No return.

ORATION

BEFORE THE

PHI BETA KAPPA SOCIETY

OF

BROWN UNIVERSITY,

PROVIDENCE, R. I.,

ON

COMMENCEMENT DAY,

SEPTEMBER 7, 1842.

BY FRANCIS C. GRAY.

PROVIDENCE:
B. CRANSTON AND COMPANY.

1842.

BOSTON:

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AMONG our numerous anniversaries, there are none more interesting than those, in which we come up from the cares, and the turmoil, and the contentions of the world, like the Jews of old yearly to their temple, to the sacred seats of learning; to witness the proficiency and do honour to the merit of the Youth, who, having completed their collegiate course, are about entering on the duties of society, and to welcome them as fellow labourers in the field of life. The occasion carries us back to the period, when we stood, as they do, on the threshold of existence, gazing eagerly into a future, not with clouds and darkness resting on it, but glowing with the sunshine of hope, and peopled with the brightest visions of youthful expectation. It carries us forward to the day, when they will look back, like us, on realities — how different from their dreams! It is good for us to be here, and being here, to contemplate the past and the future. For us, who have come up hither from our daily pursuits, as it tends to revive in all their original

ardour, the generous purposes and high resolves of our youth, so that we may descend again into the arena of the world, refreshed and reinvigorated for its conflicts. It is good for them, to pause before they step down among us, and to recal the principles here inculcated, with the firm resolution, that in every hour of temptation or of peril, they will cling to them and hold them fast. It is good for us both, to look round on our actual position, and forward on the task before us, and to consider in what manner it may be best accomplished, what are the dangers and the obstacles in our way, and how we may avoid or surmount them.

Such a survey will show that there are many circumstances in our present condition, leading to the belief, that the generation now rising into active life, in America, is destined to exert an uncommon influence on the fortunes, not only of our country, but of the whole human race; and it is my purpose at this time to point out some of those circumstances, and some of the dangers and the duties, that attend its career.

I am induced to select this in preference to any literary topic, by a sense of its immediate importance. There are periods, when some great struggle is going on, in which all men have an equal interest, and which all must be called on to meet, when the summons may be fitly sounded, not only in the groves of the academy, but even from the pulpit, to bid all be up and doing. Such a struggle is already begun. How long it will last, or how it

may end, I know not; but I am persuaded, that within fifty years, and during the life-time of some of those, who this day quit these halls, it may produce results, such as have rarely been brought about during a similar period. It has seemed to me, therefore, that I could not occupy the hour allotted to me, more usefully than in stating the reasons of this opinion; and if in so doing, I shall impress on the mind of any one a conviction of its justice, and a deep sense of the duty resulting from it, so as, in any degree, to confirm his resolution or animate his efforts in the performance of that duty, I shall not have spoken altogether in vain.

To men living in the midst of the world, the present moment is always of quite enough importance; and the controversy of the day, whether political, religious or literary, absorbs so much of their attention, that they rarely look beneath it, even though it be in fact but as a ripple on the surface of the mighty stream, whose irresistible current sweeps on unheeded. The student, on the other hand, whose knowledge of the world is derived mainly from books, and whose fancy is filled with the forms of heroes, who have founded or overthrown empires; of sages, who have established schools of philosophy; and of patriots, who have saved their country in the hour of peril; is apt to look upon our own times as degenerate and commonplace, and to dream that it were better to have lived in the days of old, when he might have heard

the lessons of divine philosophy from the lips of their authors, and have witnessed, perhaps shared the labors of the great men he admires. Such an idea has no doubt crossed the imagination of many of our young friends; but let me say to them and to their youthful contemporaries: You know not your fate. It may be, that you, who are now entering into active life, need not look back to any age with regret, that you were not born to partake its duties and its triumphs, for if the signs of the times may be trusted, there have been few periods in the history of mankind more big with the fate of nations, than that, from which the veil of futurity is in your day to be lifted; few theatres more worthy the regards of men and of angels, than that, where you are destined to tread.

A mighty revolution has long been going on throughout the whole of civilized Europe, not a revolution in the forms of government alone, but in the whole structure of society. Slow, indeed, and fluctuating in its progress, but so important in its object and results, that all the merely political revolutions, which have shaken that quarter of the world for centuries, changing dynasties and establishing or subverting thrones and empires, are, in comparison with it, but as the dust of the balance.

Eight centuries ago, the mass of its inhabitants were bowed down to the earth under the iron yoke of the feudal system, subjected to the mere caprice of petty military despots, under whose stern rule they were almost without rights, and entirely with-

out security ; and destitute even of the semblance of political power, so that neither rulers nor ruled ever dreamed that the happiness of the people was any object of government, or the will of the people any source of authority. But almost all the great changes, which have taken place during that long period, have tended, more or less, to elevate the condition and character, to increase the acknowledged rights and the political power, and to promote the comfort of the people. Many events, which seemed in themselves unmitigated evils, were made, by the blessing of heaven, to work together, in the end, for the advancement of this great good. The constant wars of these chieftains with each other ; the crusades, in which the whole chivalry of Europe poured out their blood like water ; and in England especially, the wars of the Roses, during which three-fourths of the nobles of the land fell upon the field or on the scaffold, by diminishing the power of the great lords, increased the relative influence of the people. Many politic sovereigns also granted important privileges to the latter, for the sole purpose of making them a check on the turbulence of the nobility. The invention of gunpowder brought them nearer on a level with their steel-clad masters. Improvements in agriculture and the mechanic arts and the extension of commerce gave them wealth,—and wealth is power. The establishment of towns and cities, in consequence of these improvements, gave them union and organization,—and these are power. The

cultivation of literature and the sciences, especially when aided by the art of printing, diffused knowledge among them, — and knowledge is power. It is hardly possible to overrate the influence of the reformation of religion in promoting the same great result, not only in Protestant but in Catholic countries also. Moreover, the consciousness of increasing strength led them to seize every opportunity for throwing off their burdens, and not unfrequently with success. And though in many cases the ignorance resulting from their former degraded condition, or other causes, prevented their maintaining their newly acquired rights, and made them fall back under the dominion of their former rulers, yet these occasional and momentary triumphs created more respect for their strength and more unwillingness to drive them to extremity, and thus tended, on the whole, to elevate their position in society; so that, though the wave advanced and receded, the great tide of liberty was always rising.

There is another circumstance in the history of the transatlantic world, to which I would call your attention. For four centuries past, the nations of Europe have been gradually and constantly extending their sway over all the other portions of the globe. Our own continent may be deemed entirely subject to their rule, and is chiefly peopled by their offspring. I speak not now of the validity of the claim thus to extend their power, nor of the manner in which that claim has, in many cases, been enforced; but merely of the fact of such extension,

and the probability, judging of the future from the past, that they and their descendants will sooner or later obtain, if not absolute dominion, at least a predominant authority over every other portion of the globe. Whatever, therefore, materially affects the character and institutions of these nations, must necessarily affect all who may be subject to their sway, and have no inconsiderable influence on the improvement and happiness of the whole family of man.

These European nations are now turning their eyes upon this country with an eagerness of inquiry hitherto unknown. For many years after the establishment of our present form of government, their attention was too entirely absorbed in their own terrible struggles to think much of a people so inconsiderable and so remote. But as soon as they had sunk into repose after the pacification of Europe, we rose more and more into notice. The manner in which our contest with great Britain had terminated, the enforcement of our claims to indemnity against France and other powers of the continent, our unexampled growth, our immense commerce, and the ubiquity of our enterprize, excited an increasing respect for our power, and they began to look more closely into our internal condition. Our public institutions first caught their attention, and commissioners were sent across the Atlantic by all the great sovereigns of Europe, to examine our prisons and penitentiaries. Then our rail-roads, which were spreading all over the face of the coun-

try, and were constructed more speedily and more economically than in England, were made the objects of similar commissions. Yet still nothing was known of the character or operation of our political system by the best informed statesmen of Europe, not even by those of England, whose most intelligent travellers among us, in treating of this subject, exhibit nothing clearly, but their own gross ignorance of it, until about six years ago, when a work was published in France, which was pronounced by the most celebrated and the most successful of modern diplomatists, M. Talleyrand, to be the ablest work on the science of politics, which had been written for more than a century, and which certainly contains the most complete and philosophical account of our political institutions ever published. It excited universal attention and interest, and at once gave its author, M. de Tocqueville, a place among the first political philosophers in Europe.

This writer, from the fact, that the social revolution just mentioned, is the most ancient, the most steady, and the most uninterrupted in all history, concludes, that it is inevitably predestined, ultimately everywhere, and in his own country speedily, to be fully accomplished; and accordingly he studies the political condition of America, the only country where it is already completed, and where the institutions resulting from it are in full and peaceful operation, in order to judge of its natural consequences, and the means of rendering it most beneficial to mankind.

The eyes of the statesmen of Europe then, are upon us, of those most competent to judge of our institutions, and to influence their own. The mass of the people, indeed, understand little of our system, and they understand their own no better. Yet they too, are no longer indifferent to events in this country, and all feel, that on our success or failure the hopes of the friends and of the enemies of liberty among themselves are mainly dependent. Even in the least enlightened parts of the continent, no striking occurrence here escapes notice, and whenever they receive some exaggerated account of an outrage in America, it causes them, according to their several opinions, to exult over the excesses of liberty, or to hang down their heads in shame and sorrow.

But even those most favorably disposed towards us do not consider our prosperity hitherto as an entirely satisfactory experiment on the merits of our political system. Nor can this excite our wonder. There were many circumstances in our early condition calculated to have no little effect in counteracting the evil tendencies of any system, however imperfect in itself. Besides, when first united by the revolution, our whole population hardly exceeded the present population of Switzerland; and it is admitted, that very small states may maintain free institutions, if they can secure themselves against foreign enemies. There is a little republic of San Marino, on the top of a hill in Italy, containing about seven or eight thousand inhabitants, which is

so little an object of envy or ambition to its neighbors, that it has preserved its freedom for fourteen hundred years.

But the question, which the statesmen of Europe wish to have settled, is this: whether a nation, extensive, populous and wealthy enough to defend itself, unaided, against all aggression, and maintain its fleets and armies without summoning its citizens on every alarm of war from their daily occupations and their firesides to the field, thus letting the mere sound of the trumpet interrupt all the pursuits of peace, — to make all the internal improvements which modern science is perpetually suggesting, — to establish the division of labor and the competition for success in every pursuit, essential to the perfection of the useful arts, — to promote the cultivation of science and literature, and supply the innumerable wants of civilized life, — whether such a nation be capable of maintaining a system of government, under which the citizens possess equal rights and equal political power without a degree of anarchy as intolerable as despotism itself.

Where else in the world can they look for the solution of the question but to this country, where only the elements of the problem are found united. Already its population has so increased, that it is surpassed in this respect by only four European nations, and at the end of the period we now contemplate, if the rate of increase be the same as hitherto on both sides of the Atlantic, it will be equalled by none but the gigantic empire of Russia.